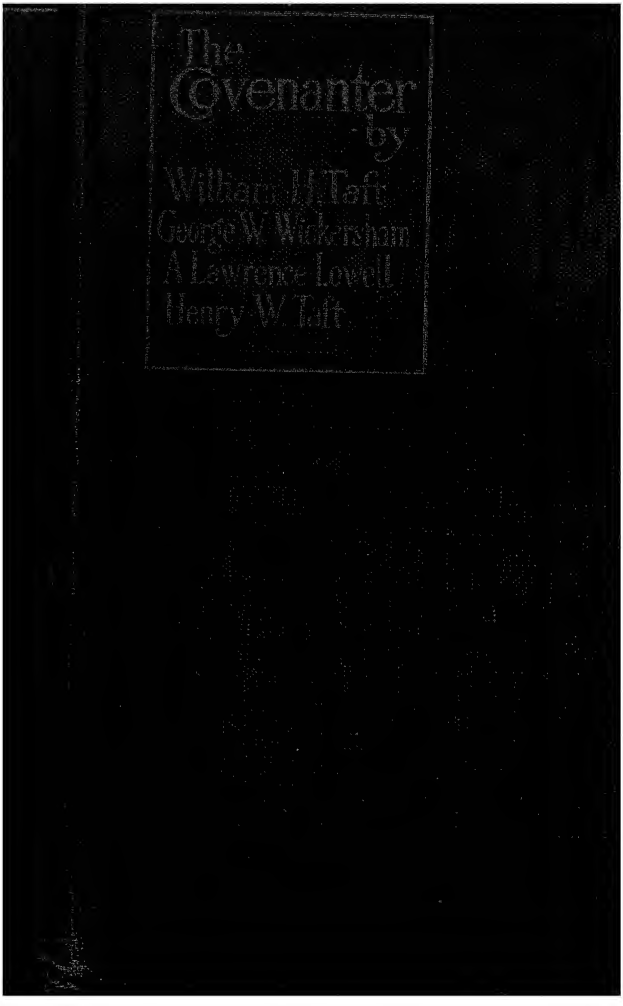
The
Covenanter
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An American Exposition of the Covenant of the League of Nations

BY

WILLIAM H. TAFT
GEORGE W. WICKERSHAM
A. LAWRENCE LOWELL
HENRY W. TAFT

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PREFACE

Under the title of "The Covenanter" the letters in the following series were published day by day in May and June of this year in a large number of leading newspapers in the United States. Most of the objections raised against the covenant for a League of Nations, embodied in the Treaty of Peace drawn up by the Convention at Paris, appeared to rest upon a misapprehension of that document; especially since it had been amended to meet the criticisms made in America. It seemed worth while, therefore, to explain the meaning of the several articles in the Covenant, and to refute the objections against it. With that aim the Covenanter Letters were prepared and published. They begin with a few introductory letters setting forth the general object sought by a league of this kind, the means essential for attaining it, the nature of the league proposed, and

its effect, or absence of effect, upon the sovereignty of the members. The articles of the Covenant are taken up in succession and considered in order to make clear their meaning, their purpose, and the necessity or propriety of their provisions.

Since few people preserve newspaper letters after reading them, it has been thought wise to republish the series as a whole, and hence this little book. In the newspapers the names of the four writers were stated, but not the authors of the several letters. It may be of interest to give these in the table of contents of this edition.

In order that the reader may be enabled to judge readily for himself how far the meaning of the provisions has been correctly understood, and the conclusions rightly drawn, the full text of the Covenant is printed herewith.

June 20, 1919.

CONTENTS

THE COVENANT OF THE LEAGUE OF NATIONS

THE COVENANTER

Text of the Plan adopted by the Paris Peace Conference, April 28, 1919

Preamble

In order to promote international co-operation and to achieve international peace and security, by the acceptance of obligations not to resort to war, by the prescription of open, just and honourable relations between nations, by the firm establishment of the understandings of international law as to actual rule of conduct among Governments, and by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another, the high contracting parties agree to this covenant of the League of Nations.

Article I

The original members of the League of Nations shall be those of the signatories

which are named in the annex to this covenant and also such of those other states named in the annex as shall accede without reservation to this covenant. Such accessions shall be effected by a declaration deposited with the Secretariat within two months of the coming into force of the covenant. Notice thereof shall be sent to all other members of the league.

Any fully self-governing state, dominion or colony not named in the annex may become a member of the league if its admission is agreed to by two-thirds of the assembly, provided that it shall give effective guarantees of its sincere intention to observe its international obligations and shall accept such regulations as may be prescribed by the league in regard to its military and naval forces and armaments.

Any member of the league may, after two years' notice of its intention so to do, withdraw from the league, provided that all its international obligations and all its obligations under this covenant shall have been fulfilled at the time of its withdrawal.

Article II

The action of the league under this covenant shall be effected through the instrumentality of an Assembly and of a Council, with a permanent Secretariat.

Article III

The Assembly shall consist of representatives of the members of the league.

The Assembly shall meet at stated intervals, and from time to time as occasion may require, at the seat of the league, or at such other place as may be decided upon.

The Assembly may deal at its meetings with any matter within the sphere of action of the league or affecting the peace of the world.

At meetings of the Assembly each member of the league shall have one vote, and may have not more than three representatives.

Article IV

The Council shall consist of representatives of the United States of America, of the British Empire, of France, of Italy, and of Japan,

together with representatives of four other members of the league. These four members of the league shall be selected by the Assembly from time to time in its discretion. Until the appointment of the representatives of the four members of the league first selected by the Assembly, representatives of Belgium, Brazil, Greece and Spain shall be members of the Council.

With the approval of the majority of the Assembly, the Council may name additional members of the league, whose representatives shall always be members of the Council; the Council with like approval may increase the number of members of the league to be selected by the Assembly for representation on the Council.

The Council shall meet from time to time as occasion may require, and at least once a year, at the seat of the league, or at such other place as may be decided upon.

The Council may deal at its meetings with any matter within the sphere of action of the league or affecting the peace of the world.

Any member of the league not represented

on the Council shall be invited to send a representative to sit as a member at any meeting of the Council during the consideration of matters specially affecting the interests of that member of the league.

At meetings of the Council, each member of the league represented on the Council shall have one vote, and may have not more than one representative.

Article V

Except where otherwise expressly provided in this covenant, or by the terms of this treaty, decisions at any meeting of the Assembly or of the Council shall require the agreement of all the members of the league represented at the meeting.

All matters of procedure at meetings of the Assembly or the Council, the appointment of committees to investigate particular matters, shall be regulated by the Assembly or by the Council and may be decided by a majority of the members of the league represented at the meeting.

The first meeting of the Assembly and the

first meeting of the Council shall be summoned by the President of the United States of America.

Article VI

The permanent Secretariat shall be established at the seat of the league. The Secretariat shall comprise a Secretary General and such secretaries and staff as may be required.

The first Secretary General shall be the person named in the annex; thereafter the Secretary General shall be appointed by the Council with the approval of the majority of the Assembly.

The secretaries and the staff of the Secretariat shall be appointed by the Secretary General with the approval of the Council.

The Secretary General shall act in that capacity at all meetings of the Assembly and of the Council.

The expenses of the Secretariat shall be borne by the members of the league in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union.

Article VII

The seat of the league is established at Geneva.

The Council may at any time decide that the seat of the league shall be established elsewhere.

All positions under or in connection with the league, including the Secretariat, shall be open equally to men and women.

Representatives of the members of the league and officials of the league when engaged on the business of the league shall enjoy diplomatic privileges and immunities.

The buildings and other property occupied by the league or its officers or by representatives attending its meetings shall be inviolable.

Article VIII

The members of the league recognize that the maintenance of a peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.

The Council, taking account of the geographical situation and circumstances of each state, shall formulate plans for such reduction for the consideration and action of the several Governments.

Such plans shall be subject to reconsideration and revision at least every ten years.

After these plans shall have been adopted by the several Governments, limits of armaments therein fixed shall not be exceeded without the concurrence of the Council.

The members of the league agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those members of the league which are not able to manufacture the munitions and implements of war necessary for their safety.

The members of the league undertake to interchange full and frank information as to the scale of their armaments, their military and naval programmes and the condition of

such of their industries as are adaptable to warlike purposes.

Article IX

A permanent commission shall be constituted to advise the Council on the execution of the provisions of Articles I and VIII and on military and naval questions generally.

Article X

The members of the league undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all members of the league. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

Article XI

Any war or threat of war, whether immediately affecting any of the members of the league or not, is hereby declared a matter of concern to the whole league, and the league shall take any action that may be deemed

wise and effectual to safeguard the peace of nations. In case any such emergency should arise, the Secretary General shall, on the request of any member of the league, forthwith summon a meeting of the Council.

It is also declared to be the friendly right of each member of the league to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb either the peace or the good understanding between nations upon which peace depends.

Article XII

The members of the league agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the Council.

In any case under this article the award of the arbitrators shall be made within a reasonable time, and the report of the Coun-

cil shall be made within six months after the submission of the dispute.

Article XIII

The members of the league agree that whenever any dispute shall arise between them which they recognize to be suitable for submission to arbitration and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject matter to arbitration. Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration. For the consideration of any such dispute the court of arbitration to which the case is referred shall be the court agreed on by the parties to the dispute or stipulated in any convention existing between them.

The members of the league agree that they will carry out in full good faith any award

that may be rendered and that they will not resort to war against a member of the league which complies therewith. In the event of any failure to carry out such an award, the Council shall propose what steps should be taken to give effect thereto.

Article XIV

The Council shall formulate and submit to the members of the league for adoption plans for the establishment of a permanent Court of International Justice. The court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

Article XV

If there should arise between members of the league any dispute likely to lead to a rupture, which is not submitted to arbitration as above, the members of the league agree that they will submit the matter to the Council. Any party to the dispute may effect

such submission by giving notice of the existence of the dispute to the Secretary General, who will make all necessary arrangements for a full investigation and consideration thereof. For this purpose the parties to the dispute will communicate to the Secretary General, as promptly as possible, statements of their case, all the relevant facts and papers; and the Council may forthwith direct the publication thereof.

The Council shall endeavour to effect a settlement of any dispute, and if such efforts are successful, a statement shall be made public giving such facts and explanations regarding the dispute and terms of settlement thereof as the Council may deem appropriate.

If the dispute is not thus settled, the Council either unanimously or by a majority vote shall make and publish a report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto.

Any member of the league represented on the Council may make public a statement of the facts of the dispute and of its conclusions regarding the same.

If a report by the Council is unanimously agreed to by the members thereof, other than the representatives of one or more of the parties to the dispute, the members of the league agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.

If the Council fails to reach a report which is unanimously agreed to by the members thereof, other than the representatives of one or more of the parties to the dispute, the members of the league reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

If the dispute between the parties is claimed by one of them, and is found by the Council to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.

The Council may in any case under this article refer the dispute to the Assembly. The dispute shall be so referred at the request of either party of the dispute, provided

that such request be made within fourteen days after the submission of the dispute to the Council.

In any case referred to the Assembly all the provisions of this article and of Article XII relating to the action and powers of the Council shall apply to the action and powers of the Assembly, provided that a report made by the Assembly, if concurred in by the representatives of those members of the league represented on the Council and of a majority of the other members of the league, exclusive in each case of the representatives of the parties to the dispute, shall have the same force as a report by the Council concurred in by all the members thereof other than the representatives of one or more of the parties to the dispute.

Article XVI

Should any member of the league resort to war in disregard of its covenants under Article XII, XIII or XV, it shall ipso facto be deemed to have committed an act of war against all the other members of the league, which hereby undertake immediately to sub-

ject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking state and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking state and the nationals of any other state, whether a member of the league or not.

It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military or naval forces the members of the league shall severally contribute to the armaments of forces to be used to protect the covenants of the league.

The members of the league agree, further, that they will mutually support one another in the financial and economic measures which are taken under this article, in order to minimize the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking state, and that they will take the necessary

steps to afford passage through their territory to the forces of any of the members of the league which are co-operating to protect the covenants of the league.

Any member of the league which has violated any covenant of the league may be declared to be no longer a member of the league by a vote of the Council concurred in by the representatives of all the other members of the league represented thereon.

Article XVII

In the event of a dispute between a member of the league and a state which is not a member of the league, or between states not members of the league, the state or states not members of the league shall be invited to accept the obligations of membership in the league for the purposes of such dispute, upon such conditions as the Council may deem just. If such invitation is accepted, the provisions of Articles XII to XVI inclusive shall be applied with such modifications as may be deemed necessary by the Council.

Upon such invitation being given, the

Council shall immediately institute an inquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.

If a state so invited shall refuse to accept the obligations of membership in the league for the purposes of such dispute, and shall resort to war against a member of the league, the provisions of Article XVI shall be applicable as against the state taking such action.

If both parties to the dispute, when so invited, refuse to accept the obligations of membership in the league for the purposes of such dispute, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.

Article XVIII

Every treaty or international engagement entered into henceforward by any member of the league shall be forthwith registered with the Secretariat and shall as soon as possible be published by it. No such treaty or inter-

national engagement shall be binding until so registered.

Article XIX

The Assembly may from time to time advise the reconsideration by members of the league of treaties which have become inapplicable, and the consideration of international conditions whose continuance might endanger the peace of the world.

Article XX

The members of the league severally agree that this covenant is accepted as abrogating all obligations or understandings inter se which are inconsistent with the terms thereof, and solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof.

In case members of the league shall, before becoming a member of the league, have undertaken any obligations inconsistent with the terms of this covenant, it shall be the duty of such member to take immediate steps to procure its release from such obligations.

Article XXI

Nothing in this covenant shall be deemed to affect the validity of international engagements such as treaties of arbitration or regional understandings like the Monroe Doctrine for securing the maintenance of peace.

Article XXII

To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the states which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this covenant.

The best method of giving practicable effect to this principle is that the tutelage of such peoples be intrusted to advanced nations who, by reasons of their resources, their

experience or their geographical position, can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as mandataries on behalf of the league.

The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic condition and other similar circumstances.

Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized, subject to the rendering of administrative advice and assistance by a mandatary until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the mandatary.

Other peoples, especially those of Central Africa, are at such a stage that the mandatary must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience or religion subject only to the maintenance of public

order and morals, the prohibition of abuses, such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defense of territory, and will also secure equal opportunities for the trade and commerce of other members of the league.

There are territories, such as Southwest Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population or their small size or their remoteness from the centres of civilization or their geographical contiguity to the territory of the mandatary and other circumstances, can be best administered under the laws of the mandatary as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population. In every case of mandate, the mandatary shall render to the Council an annual report in reference to the territory committed to its charge.

The degree of authority, control or administration to be exercised by the mandatary

shall, if not previously agreed upon by the members of the league, be explicitly defined in each case by the Council.

A permanent commission shall be constituted to receive and examine the annual reports of the mandataries and to advise the Council on all matters relating to the observance of the mandates.

Article XXIII

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the members of the league (a) will endeavor to secure and maintain fair and humane conditions of labour for men, women and children both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organizations; (b) undertake to secure just treatment of the native inhabitants of territories under their control; (c) will intrust the league with the general supervision over the execution of agreements with regard to the traffic in women and children,

and the traffic in opium and other dangerous drugs; (d) will intrust the league with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest; (e) will make provision to secure and maintain freedom of communication and of transit and equitable treatment for the commerce of all members of the league. In this connection the special necessities of the regions devastated during the war of 1914-1918 shall be in mind; (f) will endeavour to take steps in matters of international concern for the prevention and control of disease.

Article XXIV

There shall be placed under the direction of the league all international bureaus already established by general treaties if the parties to such treaties consent. All such international bureaus and all commissions for the regulation of matters of international interest hereafter constituted shall be placed under the direction of the league.

In all matters of international interest which are regulated by general conventions

but which are not placed under the control of international bureaus or commissions, the Secretariat of the league shall, subject to the consent of the Council and if desired by the parties, collect and distribute all relevant information, and shall render any other assistance which may be necessary or desirable.

The Council may include as part of the expenses of the Secretariat the expenses of any bureau or commission which is placed under the direction of the league.

Article XXV

The members of the league agree to encourage and promote the establishment and co-operation of duly authorized voluntary national Red Cross organizations having as purposes improvement of health, the prevention of disease and the mitigation of suffering throughout the world.

Article XXVI

Amendments to this covenant will take effect when ratified by the members of the league whose representatives compose the Council and by a majority of the members

of the league whose representatives compose the Assembly.

No such amendment shall bind any member of the League which signifies its dissent therefrom, but in that case it shall cease to be a member of the League.

ANNEX TO THE COVENANT

One. Original members of the League of Nations.

Signatories of the Treaty of Peace.

United States of America, Belgium, Bolivia, Brazil, British Empire, Canada, Australia, South Africa, New Zealand, India, China, Cuba, Czecho-Slovakia, Ecuador, France, Greece, Guatemala, Haiti, Hedjaz, Honduras, Italy, Japan, Liberia, Nicaragua, Panama, Peru, Poland, Portugal, Rumania, Serbia, Siam, Uruguay.

States invited to accede to the covenant.

Argentine Republic, Chile, Colombia, Denmark, Netherlands, Norway, Paraguay, Persia, Salvador, Spain, Sweden, Switzerland, Venezuela.

Two. First Secretary General of the League of Nations.

THE LETTERS

(Letter No. 1)

OBJECT TO BE ATTAINED

Before taking up the several articles of the League of Nations Covenant in detail, some remarks must be made upon the general principles involved.

The first thing to be determined, and kept in mind, both by the framers of any document, and by those who study it, is the object to be attained. Now the primary object of any League of Nations is the maintenance of peace in the world; for although it may well aim at other benefits, such as the suppression of abuses, the relief of suffering, the improvement of social conditions and of agencies for international co-operation, yet the experience of the struggle just closed has shown the predominant importance of preventing wars which, if unrestrained, threaten our civilization with destruction. Other benefits aimed at by the League may be tentative, may be

attempted at first on a small scale and developed gradually as opportunity is offered; but the prevention of war must be effective from the outset. This is the more difficult, however, because in trying any novel social experiment it is wise to disturb the existing traditions and habits as little as we can, in order to raise the fewest objections to its acceptance and to reduce the friction with customary practice to a minimum. In a League of Nations this means interfering with national autonomy as little as may be, consistently with attaining fully the end in view.

Assuming that the primary object of a league is to prevent war, it is clear that some other method of settling disputes must be substituted for a resort to arms. So far as possible justice must take the place of force. In a highly civilized community the rights and duties of the citizens are regulated by laws which can be readily applied by judicial tribunals; but on account of the imperfect state of international law that is much less the case in the relations between independent nations. Still their

relations are to no small extent dependent upon principles capable of accurate determination. This is true of rights under treaties which can be construed judicially like other contracts. It is true of a considerable body of international law which is in theory, at least, universally recognized as morally binding, and can be the subject of judicial treatment. It is true also whenever a case depends upon a question of fact capable of decision by an examination of the evidence. Such matters have been termed justiciable. But it is not questions of this kind that commonly provoke a resort to arms. Wars arise mainly from divergencies of national interests and policy which may often be reconciled, adjusted, compromised or suppressed by a process of mediation or arbitration, but not by judicial decision on strictly legal grounds. These dissensions, being political in their nature, must be dealt with on grounds of international fair dealing and expediency, and appropriate bodies for the purpose must be provided.

Having created some process of deciding justiciable questions and of adjusting political

ones, nations involved in a dispute must resort to those methods of settling it or they are fruitless. When both countries prefer arbitration to war there is no difficulty, but when one of them prefers to fight, and thinks itself sure of victory, it may not want to submit to arbitration and must be compelled to do so. An agreement to submit may be treated as a scrap of paper if no penalty is attached. Arbitration must be compulsory under a penalty which no nation will venture to face. The object is not punishment for the offense of going to war, or redress for the injury suffered, but a deterrent that shall be absolute; the aim is not retribution but prevention. Therefore the greater and the more certain the penalty the stronger its deterrent effect and the less the probability of its use. If it is great and certain enough it will never be used.

Finally the prevention of war must be accomplished not only by the settlement of disputes after they have arisen, but also by foreseeing causes of trouble and removing them before they have reached an acute stage. Hence there must be methods of frequent

consultation among the members of the League, for the interchange of points of view, for agreement on common policies, and not least of all for the expansion, precision and codification of the rules of international law which are now far too uncertain and incomplete.

No serious person believes that it is possible in the present state of the world to prevent wars altogether, and even after arbitration there may be a possibility of strife. But by a League of Nations wars can be vastly reduced, and the few that occur can be strictly limited in extent, thus saving untold suffering, and removing in great measure this scourge from mankind.

(*Letter No. 2*)

NATURE OF THE LEAGUE

There are two possible forms in which a league to maintain peace may be organized. These may be termed the delegated and the automatic forms. The first of these is like a federation of states, where certain powers are delegated to a central authority, whose action, within those limits, is binding on the several states. In a league constructed in such a manner a central organ would have power to issue directions which the members of the League agree to obey. The automatic form is more simple, more primitive, but not ill-adapted to sovereign states whose duties to the League are so few that they can be specifically enumerated in a covenant. It consists in prescribing definitely the obligations which the members assume, or will assume on the happening of a certain event, and giving no authority to any central organ

to exercise its discretion in giving orders binding upon them. Suppose, for example, that a nation declares war on any member of the League; under the delegated form the representative body would meet, discuss the situation, determine the action to be taken by the members of the League and issue its directions accordingly; while under the automatic form all the members of the League would be under an obligation to perform the acts prescribed in the agreement without regard to any action by a representative body of the League.

The distinction between the delegated and automatic forms of league seems for many people very hard to grasp. They often speak as if the latter involved merely vague promises which the members were under no real obligation to fulfil; and therefore they regard that form of league as an inferior guarantee to the other. But in fact precisely the opposite is true. This can be made clear by an illustration from business life. A bank, when offered a note endorsed by honest and responsible men, does not hesitate to discount it, because the obligation of the endorsers

is fixed, their liability to pay is automatic, arising at once on the failure of the maker to pay the note; and the endorsers, if honest men, pay without regard to compulsion by suit at law. If, on the other hand, the bank were offered the note with a conditional guarantee by the same men that in case the note were not paid at maturity, a committee of their number should meet and decide what should be done, and that if the committee so directed they would pay the note, the bank would regard such a guarantee as no security worth having. In the same way a joint and several agreement by the members of a League of Nations to coerce a state that made war on any of them would be a better and more forcible guarantee than an agreement to do so if ordered by a representative body created by them.

It is no doubt true that such an obligation to coerce the offending country is, like every other obligation of a sovereign state, a moral one; but so is an obligation to comply with the directions of the representative body. Yet it is also true that honourable nations can be relied upon to fulfil their treaties, even

when at the moment they are burdensome, as has been shown in this war. Free nations can usually be trusted to do what they have freely undertaken, and in international relations it is always assumed that they can be trusted.

The automatic form of league has, therefore, the advantage that it provides a more effective guarantee of peace. In face of such a compact, which would have brought her into certain collision with all the members of a powerful league, Germany would not have ventured to precipitate this war; whereas the delegated form of league might not have deterred her. Deliberation is often a slow process, and Germany might well have thought that before a result had been reached she would have beaten France; for she believed that this would take only a few months. Moreover, she might hope that one member of the League, being unprepared, would urge delay, while another, more remote, would argue against a general war, and at last no concerted action would be taken against her.

Another advantage of the automatic form is that the obligations of the members are

specifically stated by themselves in the covenant, so that they know precisely what duties they assume under any conditions that may arise; while the delegated form leaves their obligations uncertain, to be determined at some future time by a representative body which may go farther or less far than some of the members desire. Vigorous objection has been made in the United States to a super-sovereign league that would have authority to order this country what to do in case of an attack against another member of the League. The objection is not without cogency; but it does not apply to the Covenant of Paris, either in its original or its amended form, for that Covenant has adopted as its basic principle the automatic type of league, fixing the obligations of the members and the sanctions for violation in the pact itself, instead of leaving them to be determined by a representative body. The Council of the League is, indeed, at liberty, and even enjoined, to advise or recommend further action by the members, but no member assumes any obligation to follow the advice unless it chooses so to do. The language

is in that respect perfectly clear and consistent, unless we are to construe such words as "advise," "propose," and "recommend" in a sense quite contrary to their ordinary meaning. How completely this is true will be clearly seen when we examine in detail the articles of the Covenant.

(*Letter No. 3*)

ORGANS OF THE LEAGUE

Even the simplest form of league requires three classes of organs, judicial, deliberative and secretarial. The first and last of these will be more conveniently discussed in connection with the articles of the Covenant. In this letter we are concerned with the deliberative organs.

The functions of a League of Nations include not only the settlement of disputes after they have arisen, but also removing causes of dissension and discontent. For this purpose representative bodies are required. It is not essential that they should have any binding authority, and in fact in the automatic form of league they certainly would not; but consultative functions they must have and these are of the utmost importance. International congresses have often settled questions that might otherwise

have led to war; but hitherto they have been held only by universal consent, and in 1914 Germany was unwilling that such a congress should meet. To prevent war there must be both compulsory arbitration of disputes and regular meetings of representative bodies for consultation.

Of such bodies in a league comprising many nations there ought to be two, one large and the other small. The reason is the same as for having in a free nation a large legislature and a small executive. The large legislature gives an opportunity for the representation of many points of view, of many different interests; and in a league the larger body makes possible the representation of every member nation however small. But a large body cannot act quickly, and it is moreover not well fitted for reaching by compromise and concession the unanimous opinion on concrete questions often essential to harmony and success. In a small body, however, all the members of a numerous league cannot have seats. Some states must be left out, and it is clear that the presence of the large nations is the most important,

because on them the responsibility must mainly fall in peace and war, and because their mutual confidence is the strongest guarantee of enduring co-operation. There is also good sense in their presence from the fact that the large nations touch the world at many points, the smaller ones at less. Thus England, France and the United States have a broader outlook than Rumania or Bolivia which see a comparatively narrow part of the interests of mankind, and have a more local vision. At the same time the lesser states ought not to be wholly left out of the smaller body. Their point of view, and the fact of their presence, are indispensable. The Covenant of Paris has sought to meet this difficulty by an ingenious compromise.

The Covenant wisely leaves the method of appointing the representatives to the states themselves; but as there has been some difference of opinion on that point among the advocates of a league in this country it may not be out of place to discuss it briefly. The Council of the League is entrusted with the function of recommending to the members

sundry things in addition to those which by the Covenant they specifically undertake to do. Sometimes it may recommend positive action, and therefore it is important that the representatives should, so far as possible, be in a position to speak for their respective governments. If one of the Balkan states, for example, should pursue, or allow its citizens to pursue, a course of conduct which, while not amounting to a hostile act, is highly and properly offensive to a neighbour and likely to lead to a breach of the public peace, the question would arise what representations, if any, should be made to that state by the members of the League acting in concert. Since the Council has no power of its own, and any action must be that of the several members of the League, it is clear that a discussion by people who could not speak with authority for their nations would not attain the end desired. In such a case the Council must be in fact a meeting of the ambassadors of members of the League, not a debating society for the expression of every variety of divergent opinion. This is, indeed, one of the chief reasons for including in the Council the

representatives of the powerful nations whose opinions cannot fail to carry weight with states that are fomenting trouble.

Moreover, the function of the Council being merely to make recommendations, these are far more likely to be accepted by a nation if prepared by the official representatives of its own government, than if by spokesmen of a minority, or by any other men who do not act under the directions of the political authority of the nation; and that must continue to be the case so long as the League is an alliance of independent states seeking to promote harmony of action, not a common government for the peoples of those states. Mr. Root is clearly right that it would be wise to have the American members of the Council appointed and confirmed like ambassadors, since that is in effect the position they are to hold.

This applies much less to the Assembly, which, with its very restricted functions, is intended to be a body for general discussion, and will serve its most useful purpose in ventilating the opinions of all mankind. Here again, however, it would be better not to have any

rigid system of minority representation such as has been suggested, but to leave the matter to be determined in each case according to the class of questions likely to arise. If, as we hope, the Assembly should undertake a revision of international law, it would be highly expedient to select jurists learned in that subject without much regard to party; and the same thing is true of other matters requiring technical knowledge of economic or social questions.

In these opening letters "The Covenanter" has tried to set forth the general principles on which any League of Nations must be based. After considering certain questions particularly affecting the relation of the United States to a league, it will be of interest to examine in what way, and to what extent, these general principles are applied in the Covenant of Paris.

(Letter No. 4)

SOVEREIGNTY

Every civilized nation must, in the interest of its citizens, make treaties, and, like ordinary trades between individuals, these must be negotiated on the principle of "give and take." Whatever it agrees to do or to refrain from doing imposes a restriction which detracts from its complete sovereignty. But it does not thereby unduly surrender its independence, unless the restriction makes its ordinary governmental functions subject to control by another country, as was the case, for instance, with Cuba, when she accepted the terms of the Platt Amendment, and thereby subjected her national financial policy and her foreign relations to the supervisory control of the United States. A nation's independence is not unduly impaired by a treaty by which it receives advantages which compensate it for what it concedes.

It is too late to argue in this country that international agreements to make or to refrain from making war, to guarantee protection to the territory of other nations and to limit armament, unduly impair a nation's sovereignty; for numerous instances of such agreements in existing treaties will be found in our diplomatic history. Nor can it be said that such agreements were not contemplated when our Constitution was adopted, for the Supreme Court has held that under the treaty-making power, the President and the Senate may make any agreement they regard as appropriate, provided it does not result in "a change in the character of the Government or in that of any of the states or a cession of any portion of the territory of the latter, without its consent."

Article X of the Covenant is criticized as involving an impairment of sovereignty. By that Article there is created a defensive alliance of the nations of the League to prevent external aggressions threatening the territorial integrity or the political independence of any member nation. The alliance is designed primarily to give protection to

the seven new republics in Europe and the four autonomous nations in the Near East, created as a result of the war; and the obligation to join in such an alliance was thrown upon us because, by the Fourteen Points on which the armistice was expressly based, we made ourselves responsible, not only for the erection of the new states but also for their protection against attacks from without, threatening their status as it was to be established by the Treaty of Peace. For this we are to receive the further advantage of the continuous co-operation of the League in preserving the peace of the world.

Furthermore, the obligation imposed by Article X will probably be less burdensome than opponents of the League have assumed, for if it were sought to have the Council advise that the United States should intervene in what we regarded as an unsuitable case, we could veto the suggestion by our single vote. But it is altogether improbable that that would be necessary; for in any concrete case it would naturally happen that the burden of performing the guaranty would, in the first instance, fall on the nation nearest

at hand or politically most concerned. The chance that we should often, if ever, be called upon to send troops or warships to Europe or Asia to repel local aggressions would be remote, since in practice they would have to be dealt with summarily by the nations more directly affected, precisely as, under the reservation of the Monroe Doctrine in Article XXI, we would be expected to deal with aggressions upon countries of the Western Hemisphere.

In considering whether we are unduly hampered by Article X "the real question," in the words of Sir Frederick Pollock, an eminent authority on the subject, "is whether the security for the common peace to be gained by the establishment of a common power is worth its price." When we became implicated in the European situation, we committed ourselves to the proposition that the price paid by our becoming a party to the guaranty of Article X was not out of proportion to the security we expected to enjoy in the future. It was in the interest of the people of this country that the United States should become a decisive factor in the world's affairs. We

cannot, with national honour, now escape a responsibility corresponding to our contribution to the winning of the war. That is imposed upon us by the dictates of international morality, and no nation can be said unduly to surrender its sovereignty by discharging such an obligation.

(*Letter No. 5*)

SOVEREIGNTY (*Continued*)

The chief purpose of the League is to preserve international peace. It is sought to accomplish this through the reduction of armament (Art. VIII), the suspension of war during the process of the settlement of disputes by arbitration or through mediation (Arts. XII, XIII and XV), and an economic boycott for a violation of the covenant (Art. XVI). In view of America's past efforts to avoid war by procuring the settlement of disputes by arbitration, even though they involve vital interests or national honour, it seems unnecessary to argue that such a comprehensive scheme for preserving the peace of the world as that worked out in the covenant does not involve an undue surrender of sovereignty. Furthermore, all of the obligations assumed for the beneficent purpose of the League have their counter-

part in covenants contained in earlier treaties:

In 1817, by the Rush-Bagot treaty, this country and Great Britain agreed to limit their naval armament upon the lakes forming the boundary between this country and Canada.

By the Webster-Ashburton treaty, Great Britain and this country agreed in 1842 that they would maintain a naval force on the coast of Africa for the suppression of the slave trade.

By the Clayton-Bulwer treaty of 1850, between Great Britain and the United States, the two countries guaranteed the neutrality of any ship canal that might be built between the Atlantic and Pacific, and agreed among other things, that neither nation would ever "obtain or maintain for itself any exclusive control over the said ship canal," or "erect or maintain any fortification commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America," or "take advantage of any in-

timacy, or use any alliance, connection, or influence that either may possess, with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other." The treaty also provided that vessels of the two high contracting parties should be exempt in case of war between them, from blockade, detention or capture.

In 1846, by Article 35 of a treaty with Colombia, the United States guaranteed "positively and efficaciously * * * the perfect neutrality" of the Isthmus of Panama. In 1901, the Panama Canal treaty was made with Panama, by which it was provided that the canal could never be blockaded, and that no act of hostility could be committed within it. In 1903, this country by treaty guaranteed and agreed to maintain the independence of the Republic of Panama.

By a treaty with Honduras in 1864, the

United States guaranteed the neutrality of the Honduras Railroad.

In 1889, by treaty with Germany and Great Britain, the signatory powers recognized the neutrality of the Samoan Islands and provided that the three powers should have equal rights within the islands.

By the so-called Bryan treaties "For the Advancement of Peace" made by the United States with Guatemala, Norway, Portugal, Great Britain, Costa Rica, Spain, Sweden, Denmark, France, Uruguay, Peru, Paraguay, Italy, Russia, China, Chile, Ecuador, Honduras, Brazil and Bolivia, we have, in practically identical language, agreed that disputes arising between this country and the other countries named shall be submitted for investigation and report to an International Commission, and that while such investigation is proceeding we will not resort to war for the satisfaction of our rights. Even questions of national honour and vital interest are not excluded. The Commission is to be so selected that in most cases a majority of the Commission will come from nations other than those who are parties to the dis-

pute. Finally, by the "favoured nation" clauses of our commercial treaties, we have acted on a principle not very different from that underlying the economic boycott provided for in Article XVI.

Thus, under the treaty-making power we have made covenants for the reduction of armament, the maintenance of armed forces in foreign territory, the fixing of boundaries, the maintenance of neutrality of territory belonging to other nations, the guarantee of the independence of other nations, the compulsory arbitration of disputed matters, with the postponement of war during that process, the participation by this country with other countries in the affairs and government of backward nations, a restriction upon the right to erect fortifications for the protection of property in which this country is interested and with reference to which it assumes a responsibility, and an appropriation of money in order to make all such covenants effective. Excepting that it deals in a single treaty with a greater number of nations and a greater variety of subjects, the Covenant of the League does not require an invasion of the

sovereignty of the United States to a greater extent than that involved in such covenants as these.

Provisions conferring powers upon the Council have been pointed to as an excessive delegation of sovereignty. But the power delegated is no greater than that conferred by the Bryan treaties upon arbitrators, a majority of whom may be foreigners, and it is far less than that by which the members of the Postal Union renounced their important governmental prerogative of fixing rates of foreign postage. The Council was necessary for purposes of administration, but it has no power to commit the League. It can only make recommendations and even such advisory action can be prevented by the veto of a single member of the Council.

Finally, the real question is whether the restriction upon sovereignty is justified by the expected result for which it is imposed. No loftier purpose can be sought for by any nation than the maintenance of peaceful relations with other nations, and nothing will so clearly justify for its accomplishment an appropriate surrender of sovereignty.

If Articles X, XII, XIII, XV and XVI are effective to that end, it may with truth be said, as Sir Frederick Pollock said of the Bryan treaties, that if they result in undue detraction from our national independence, then such "independence is a kind of legal fiction hardly worth preserving, like the absolute and individual sovereignty of certain publicists, which, unfortunately for their doctrine, it is impossible to find in the government of the United States, or in any federal constitution."

(*Letter No. 6*)

CONSTITUTIONALITY

The Covenant of the League of Nations is a treaty, and the validity of its provisions must, therefore, depend upon the Federal Constitution which confers on the President the "power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." As by the same instrument treaties are made "the supreme law of the land," the President and the Senate in making a treaty enact, or at least initiate, what is in the nature of legislation, and they are made the agents of the people for that purpose. But a certain school of publicists have asserted that a treaty dealing with matters requiring supplementary action by Congress, as, for instance, a declaration of war, should expressly provide that it is made subject to action by the House of Representatives, or at least

that the House should be consulted before a treaty is agreed to. For a century, however, the President and the Senate, without consulting the House, have been negotiating treaties; and the Supreme Court, whenever the question has arisen, has held that while they could not agree to do what is forbidden by the Constitution, or to make a change in the government of the United States or of one of the states, or to cede the territory of one of the states without its consent, there is not "any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiation with a foreign country."

Most treaties which have been made by the United States would have remained empty pacts without action by Congress. In connection with the present discussion it is pertinent to note that by some of such treaties we have guaranteed the territorial integrity or the political independence of some foreign nation, and have thus committed the nation to war, if necessary, for the enforcement of the guaranty; while by others we have agreed to reduce armament on the

Great Lakes, to maintain a naval force on the coast of Africa or to refrain from war during the arbitration of international disputes; and we have frequently made treaties requiring the appropriation of money or some economic legislation by Congress in order to give them effect. But the President and the Senate have never waited in making such treaties for action by Congress, nor, on the other hand, has that branch of the government ever failed to enact necessary legislation.

There would be no constitutional way of compelling Congress to take action, although a legal discretion to refuse to act is virtually a power to abrogate a treaty. Hamilton sums up the matter thus:

"The House of Representatives have no moral power to refuse the execution of a treaty which is not contrary to the Constitution, because it pledges the public faith * * *" And Washington, in a case where the question arose sharply, said that "every House of Representatives has therefore acquiesced and until the present time not a doubt or suspicion has appeared to my

knowledge that this construction was not the true one; nay, they have more than acquiesced, for till now, without controverting the obligation of such treaties, they have made all the requisite provisions for carrying them into effect."

Suggestions have been made that treaties of such importance as the League of Nations should not be entered into by the President without ascertaining the will of the nation and of the representatives of the people elected to the House of Representatives. But we are a nation governed by a constitution, and there is no way under that instrument for submitting a treaty directly to the people or to Congress for their approval; and if governmental agencies vested with treaty-making powers should attempt to do so, they would be evading the duty clearly imposed upon them by the Constitution.

Furthermore, it would not be possible to ascertain how some future Congress would act. If the sentiments of one Congress could be ascertained, that would be no assurance that the next Congress would be of the same mind. One Congress might be willing to enforce an

economic boycott under Article XVI or to take military measures for the performance of the guaranty of Article X, while another would not assent to such action. Congressional action would, of course, be taken under the circumstances existing when a concrete situation had arisen; and in the vast majority of cases it would be impossible to forecast those circumstances. It would, therefore, be a futile expedient to procure assurances from the Congress that happened for the moment to be in power.

It is quite true that, as the President and Senate always take the initiative in making treaties, Congress, in enacting supplementary legislation to give a treaty effect, acts under a sort of coercion due to the fact that duly-constituted governmental agencies have committed the nation to a solemn moral obligation. But this situation is inevitable under the distribution of powers under the Constitution, and it no doubt accounts for the historical fact that Congress has never refused to take appropriate legislative action. It was this phase of the matter that led President Washington, when the House of

Representatives sought to investigate the instructions under which the Minister of the United States negotiated the Hay Treaty, to refuse to send to the House the papers which had been before him when the treaty was signed, and to say:

"It is thus that the treaty-making power has been understood by foreign nations, and in all the treaties made with them *we* have declared and *they* have believed that when ratified by the President with the advice and consent of the Senate they became obligatory."

(Letter No. 7)

ARTICLES I and II

The original members of the League are those who are admitted without a vote of the Assembly, and therefore without giving guarantees of their sincerity and without regulations in regard to their military and naval forces. These countries are enumerated in the Annex to the Covenant and they are divided into two classes. The first list comprises all the countries, except Russia, that declared war, or were deemed to have taken part in the war, against Germany. They are thirty-two in number, including as distinct members India and the four largest self-governing colonies of England. The second list contains the names of thirteen states, being all those neutrals during the late war which have free and stable governments. The chief nations not in these lists are Germany, with Austria-Hungary, Bulgaria and

Turkey, her allies in the war; and Russia, whose political future is as yet wholly uncertain.

Assuming that the countries named in the Annex to the Covenant will, with few and not very important exceptions, join the League, it is interesting to compare the relative populations included within it and those which are at present left out; for on the preponderance of the League may well depend the question whether it will prove an irresistible force for peace and justice in the world, or merely an alliance that may be opposed by a counter alliance on the discredited system of balance of power.

Russia, after the loss of Poland, Finland and the Baltic provinces, has still a hundred millions of people of Slavic race; but at present they are in such a chaotic condition and are so distracted by civil war that their future cannot be foreseen. If Russia remains permanently divided parts of it will certainly drift into the League. If it becomes reunited it is more likely to cast in its lot with the League than to ally itself with Germany or remain isolated.

Apart from Russia, and the former Turkish dominions which will be largely absorbed by other states, there will remain outside of the League Germany, a part of Austria, Hungary and Bulgaria. After the losses of territory these have sustained they will have a population of a little more than one hundred millions, all in Europe. The members of the League, on the other hand, will have in Europe a population of over two hundred millions, and elsewhere a population of European stock of about one hundred and fifty millions. The people of non-European or mixed race in independent countries with stable governments will add, perhaps, a hundred million more, besides India, China and Africa with over seven hundred millions of people. In men and money, in commerce and natural resources, in all that gives ultimate power, the potential force of the League should be supreme, if its members keep faith and abide by their principles of maintaining peace and justice on the earth.

If these figures show the potential force of the League, they show also the need of such a League, the need of a close and honour-

able co-operation among members, and not least the need of watchful attention to the developments in central and eastern Europe.

The second article of the Covenant provides that its action shall be effected through the instrumentality of an Assembly and a Council, with a permanent secretariat. This means that so far as the members of the League act through any common organs these are the ones through which they act. It does not mean that they are not to act directly without the intervention of any organ of the League whatever. To hold such a view would nullify many of the obligations which, if one can use the expression, are personal and direct. For example, in Article X the members bind themselves individually to preserve and protect one another's independence and integrity against external aggression, the Council only giving advice on the best means of doing so. When under Article XIII two members go to arbitration they do it without regard to the Council or Assembly. Under Article XVI the boycott or blockade is to be set in operation immediately by the members, without waiting

for action by the Council which has no discretion to authorize or forbid it. This is true also of the obligation to furnish mutual economic support and allow the passage of troops. Again the agreements for humane treatment of labour, etc., impose obligations directly upon the members of the League.

How direct these obligations upon the members are, how much depends upon their automatic action, and how restricted is the authority of the organs of the League will be seen more fully as we proceed to examine the several articles of the Covenant.

To meet criticisms made in America, a clause was added to the first article permitting any member of the League to withdraw after two years' notice. Such a withdrawal ought not, of course, to be permitted in order to avoid obligations already incurred; and it is therefore very properly subject to the proviso that these have all been fulfilled at the time of the withdrawal.

(*Letter No. 8*)

ARTICLE III

This is the larger organ of the League, the one in which all the members are represented; by three delegates apiece if they please, so that if all the forty-five countries named in the Annex to the Covenant should join the League, and each of them should send its full complement of three, the Assembly would fill one hundred and thirty-five seats. Since statesmen and others in all lands have a strong desire to be of service on such occasions it is probable that the delegates present will not be much less than this, a number well fitted for debate, but not for confidential interchange of opinions on delicate matters.

The Assembly will, indeed, probably attract more popular attention than any other organ of the League; and yet its actual functions, which are to be found scattered through various articles of the Covenant,

are extremely limited. Besides regulating its own procedure and appointing its committees, it is empowered to select the four smaller states to be represented on the Council; to approve of enlargements of the Council; to confirm the selection of the Secretary General; to report upon disputes between nations referred to it by the Council or by either of the disputants; to advise the reconsideration by members of the League of treaties that have become inapplicable, and the consideration of international conditions endangering the peace of the world; and by a two-thirds vote to admit new members to the League. Except, therefore, for some definite powers relating to the organization and membership of the League, its authority in international affairs is confined to making a report in certain disputes, and giving to the members advice on a few subjects.

What then is the meaning of the third clause of the article which provides that "the Assembly may deal at its meetings with any matter within the sphere of action of the League, or affecting the peace of the world." Clearly this does not mean that it can deal

only with the subjects to which its authority extends by the special provisions of the Covenant, for that would reduce its field of discussion to almost nothing. Nor, on the other hand, does it mean that the Assembly can take action binding upon the members in all matters within the sphere of action of the League, because specific provisions are made for dealing with those matters, and the interpretation suggested would render all such provisions futile. The Assembly would have power to overrule them all. Moreover, Article V declares that except where otherwise expressly provided decisions of the Assembly or Council shall require the consent of all the members of the League represented at the meeting. But a unanimous decision of forty-five countries can never be attained where there is any serious difference of opinion, and where there is not it is needless. To authorize the Assembly to deal unanimously with any subjects they pleased would, therefore, be simply conferring a power that cannot be used.

In view of the other specific provisions of the Covenant the intention of the clause is

perfectly clear. It means that the Assembly is authorized not to decide, but to discuss, all matters within the sphere of action of the League or that affect the peace of the world. In this it is the successor to the conferences at the Hague. Save for the very limited authority expressly vested in it the function of the Assembly is discussion, and that is of immense importance. The mere fact that any nation, however small, can bring its grievances and its aspirations before a general body of representatives gathered from all the free, orderly and civilized peoples of the earth is of inestimable value. It is a fertile means of creating that enlightened public opinion on international questions which has been heralded as one of the chief objects of a league. International distrust often arises from misunderstanding which can be removed by open conference; and points of contact are points of mutual comprehension.

The greater part of the objections raised to the Covenant appear to be based on a misconception of the Assembly. We are told, for example, that if we accept the Cove-

nant, the United States will be outvoted in a body in which the British Empire has six votes to our one, and in which the majority of members will be delegates from small or backward countries, perhaps even of Asiatic or African race. Similar objections are not raised against the Pan-American Congress, although the United States could be immeasurably outvoted there by countries whose domination we should be unwilling to accept. No such objection is raised in the case of a Pan-American Congress because it has no power to do anything but talk. In other words, it is a purely consultative body, with no legislative authority whatever. Yet it is not useless, because it brings the countries in this hemisphere together, gives a chance to air and remove grievances, and produces a more friendly feeling.

The position of the Assembly under the League of Nations is closely analogous to that of a Pan-American Congress, for it has power only to debate, and is not given authority to bind the members. Nevertheless, it also is not useless; and as the Pan-American Congress was established with a view to pro-

moting harmony between the countries in this hemisphere, so the Assembly is a sort of Pan-World Congress to bring about harmony between all the nations of the earth. Under these circumstances, objections based on the number of delegates or their distribution are wholly beside the mark.

Disraeli once said that Parliament was the great inquest of the nation. The Assembly of the League may well become the great inquest of the world; the body where plans for the betterment of mankind are advocated, and where codes of international law are prepared and debated.

It may be observed that although each member of the League is entitled to send three representatives to the Assembly the voting is by states. Some people have desired a great parliament of the peoples of the earth, but as yet that is utopian. The organization of the modern world is built upon nationality, and whatever a remote future may bring forth, at present peace and order, justice, progress and liberty must be based upon a concert of free nations.

(*Letter No. 9*)

ARTICLE V

The Council is the principal organ of the League; for while its functions are almost entirely confined to supervision and the making of recommendations, the sphere in which it can do this is large.

Now the responsibility for carrying out the objects of the League rests mainly upon the five large nations. On their co-operation its effectiveness depends. Without them it would be powerless. They must be kept constantly in close touch with one another, and hence in the small body which meets most frequently and in which the most intimate conference takes place, they must always be present. But although that body possesses no legal authority to direct the action of the members, yet, if it were composed exclusively of the representatives of the five largest nations, those five could, if they agreed to-

gether, exert such an influence as practically to rule the League, and in fact the whole world. It is important, therefore, that the smaller states should be represented on the Council, and that the states having seats there should not always be the same. To accomplish this result the Assembly is empowered to select from time to time the states that shall be represented; and since in the Assembly the small states will far outnumber the large ones, and each state has one vote, the states to have seats will practically be selected by the smaller members of the League. In order, moreover, that important action affecting any smaller state may not be taken in its absence it is further provided that in such a case the state shall be specially invited to attend. Thus effectiveness by the presence of the larger states is combined with fair consideration for the smaller ones.

It is noteworthy that in revising the draft of the Covenant the name of the Executive Council was changed to Council, because it is not in fact entrusted with executive power. Apart from matters relating to the organiza-

tion of the League—such as the appointment of the Secretary General, and of permanent commissions, and the naming, with the approval of the Assembly, of additional members of the Council,—its functions are almost wholly advisory or supervisory. Thus it is to formulate plans for reducing armaments; to give advice on restricting the private manufacture of arms, and on the means of resisting aggression upon the integrity of a member of the League; to propose steps to give effect to an arbitral award; to formulate plans for a permanent court of justice; to endeavour to effect the settlement of disputes between two members of the League; to conduct inquiries in such cases; to publish facts and recommendations if it fails to reach an effective decision of a dispute; to recommend military contingents in case of an attack upon a member of the League; to make recommendations to prevent hostilities between non-members; and finally to supervise the prohibition of trade in white slaves, opium, etc., and the administration of international bureaus.

The only cases in which the Council has

power to take action that has a binding effect of any kind upon the members of the League are three. First, if a plan for a reduction of armaments is voluntarily accepted by the members, no one of them can exceed it during the period for which it has been adopted without the consent of the Council. Second, if in case of an inquiry into a dispute the Council makes a recommendation which is unanimous (except for the parties thereto) no members of the League can attack another member that complies with it. And third, if a member chooses to accept a mandate over a backward territory it must do so on the terms agreed upon by the members of the League, or fixed by the Council. In two other cases the Council has power to take action that has a binding effect, but not on the members of the League. It can determine conditions on which an outside power may join the League, either for the purpose of settling a particular dispute, or permanently, and in this last case it can regulate the military equipment the new member may possess.

We may observe that only in matters of

procedure and appointment, and in publishing facts and recommendations in a dispute where it cannot make a report with any binding effects, can the Council act by majority. In all other cases, even where it only gives advice, its vote must be unanimous. The only exception is that in deciding a dispute the votes of the parties thereto are not counted. The United States might thus be prevented by act of the Council from attacking a member of the League when all the other members of the Council thought we were in the wrong. Save in that case, no action of the Council, even the making of recommendations, can take place unless the United States concurs. The fear, therefore, of a super-sovereign, of a loss of our national sovereignty, or of a Council that rules the world, is the result of inattentive reading of the documents or of an overheated imagination.

(Letter No. 10)

ARTICLES V, VI and VII

Procedure and the appointment of committees in the Assembly and the Council are to be decided by a majority vote; almost all other matters require unanimity. The function of these bodies being mainly discussion, the requirement of a unanimous vote on questions of procedure would enable one member to prevent any subject from being debated; and if it were required for the appointment of committees one member could prevent gathering the information needed for intelligent discussion.

The object of demanding unanimity for other matters was really to still the alarm of people who did not understand that the organs of the League are given no substantial power to direct the conduct of the members. But the provision is by no means inconsistent with the principle on which the League is

based—that of automatic action by the members on matters specifically set forth in the Covenant itself, and beyond this conferences with a view to voluntary concerted action by all the members. For the last purpose a unanimous vote is not inappropriate.

It may be well to explain here more precisely what is meant by automatic action on the part of a member of the League. It denotes action that is automatic so far as the League or its organs are concerned, not in regard to the constitutional branches of its own government. Under Article XVI, for example, if one nation resorts to war against another in disregard of its covenants the other members of the League agree immediately to subject it to the severance of all trade and financial relations, and to prohibit all intercourse between their citizens and its citizens. This is automatic in the sense that it is a direct and immediate obligation, wholly independent of any action by any organ of the League. It is not automatic in the sense that the severance of relations takes place automatically without any action by the governments of the several members of the

League. Nor does it determine what branch of a national government has power to put it into effect. That depends upon the constitution of the nation. With us it would require legislation, and therefore action by Congress; but Congress is under a moral obligation, like that imposed by every treaty which pledges the good faith of the nation, to enact the legislation required.

The League will obviously need a considerable body of men to carry on a voluminous correspondence among the members, to record the proceedings of the different organs, to collect such information as they may require, and to assist the various committees and standing commissions. In fact, the convenience of the representatives, and the ease of working the organization, will be greatly promoted by the efficiency of such a secretariat and its chief. This is especially true because in popular governments—and no others are expected to be members of the League—the men who hold the high offices of state change frequently, and hence the representatives in the Council and Assembly are not likely to remain long enough to be

thoroughly familiar with the details of previous transactions, but must depend for much information upon the secretariat.

In order, therefore, to render efficient service the Secretary General and his subordinates should be permanent, fully conversant with the history and condition of international relations, but not themselves political persons. Their duty is to serve the League, not to direct it; and in view of the large influence that any permanent expert, with the details of all matters at his fingers' ends, can exert over a changing body of political superiors, it is of the utmost importance that the secretariat should be as free from bias and from political motives as possible. Their object should be the success of the League as an institution, not the special interest of any particular country. If rightly administered the secretariat may well become one of the most important and beneficial organs of the League.

Article VII needs little comment. It confers upon the delegates to the Council and Assembly, to their commissions, to the secretaries and to the buildings they occupy,

the freedom from interference by local laws and local officials conferred by universal custom upon ambassadors and embassies in foreign lands. In order to ensure for the League complete independence from influence and pressure by any great nation, and still more from any suspicion of such influence, it was wise to place the seat of the League in a small and traditionally neutral country. No better place could have been selected than Geneva.

(*Letter No. 11*)

ARTICLE VIII

By Article VIII the League members expressly declare that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations. Taking account of the geographical situation and circumstances of each state, the Council is to formulate plans for such reduction for the consideration and action of the several governments. The League members agree to exchange full information as to the scale of their armaments, their military and naval programmes and their warlike industries. After adoption by the several governments of the plan of reduction, the limits of armaments therein fixed are not to be exceeded without the concurrence of the Council. The plans are to be reconsidered and revised

at least every ten years. The League members agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections and the council is to advise how these evils can be prevented.

This is the first of the four great steps toward securing permanent peace in the League Constitution and is as important as any. One of the great factors in bringing on this war and in making it what it was, was the race in armaments between the European nations. Prussia under Bismarck perfected its military establishment by winning three wars, first against Denmark, secondly against Austria and then against France—thus the German Empire was made in 1871. From that time on, the German armament has been increased and has kept pace with the growth of German desire for world domination. A thorough and drastic system of conscription, military training and reserves, built up the German military establishment so that it was a perfect machine and far more formidable than that of any other government. Fear of it prompted every conti-

nental nation not in alliance with Germany to enlarge its armament. Germany's allies, Austria and Italy, joined in the race at her instance. Thus these huge war establishments went on increasing from decade to decade. After a time, Germany acquired naval ambition, and then the race began between her and Great Britain.

The inevitable result of all of this with its intent was war and war came. The evils may be easily summarized.

First: Grievous burdens of taxation were imposed upon the peoples of the competing countries. Their producing capacity was seriously impaired by consuming three years of the best producing part of the lives of their young men.

Second: Consciousness of the power of such a military establishment produced a truculence and bullying tendency on the part of Germany who kept ahead in the race. The Kaiser flaunted to the world the diplomatic triumphs he achieved by standing forth in his "shining armour." His military machine and his knowledge of the defects of the Russian and French machines led him

to improve the occasion of the Austrian-Serbian difficulty to seek war before the defects of his rivals could be supplied. Thus the race of armament brought on this war.

Third: The growth of these enormous armaments under such conditions have made this war the most destructive in history. Peoples and civilizations have been the objects of attack, not armies merely. The killing of non-combatants, old men, women and children and the permanent devastation of enemy country have been features of the German campaigns and all because the vast military preparations and the organization of suitable machinery naturally led to this method of winning lasting victory and permanent conquest.

This succession of causes with the result is bound to recur again unless the great powers of the world lead all nations to suppress such dangerous competition. The end is to be achieved so far as Germany, Austria and Turkey are concerned by compulsory terms of peace. The drastic provisions of the treaty just presented to the Germans for their signature leave no doubt on this point.

But how as to the other nations? How can they be restrained? No other method has been or can be suggested but by an agreement such as is embodied in the League. Why should the United States not enter the agreement? It is objected that by doing so this nation is delegating to a foreign body in which it has only one representative the limiting of its power to defend itself from foreign aggression and possible destruction. It is said that it leaves us "naked to our enemies."

The answer to the objections is full and complete. First, the Council in formulating the plan and fixing limits must act unanimously. Therefore, the plan cannot be adopted by the Council without the consent of the American Representative in that body. This is a guaranty that the limits to be fixed would be not unfair or unreasonable so far as we are concerned.

Secondly, after the plan has been formulated and the limits fixed, each government must accept it before it is adopted. Therefore, the Government of the United States through its constitutional agencies, the

treaty-making power and in this case the Congress as well, will consent and fix the limits of armament if they may deem it wise. Surely this protects us against the arbitrary or unfair fixing of a limit by any body but ourselves. Are we children who cannot protect our own interests in making such an agreement?

(Letter No. 12)

ARTICLE VIII *(Continued)*

Under Article VIII we covenant to keep within the limit we agree to for ten years, when the whole plan is subject to revision—meantime, should conditions change, the Council has power to increase the limit for any government needing it; but it can only be granted with the consent of our representative in the Council. More than this, we can at any time withdraw from all the obligations of the League, including this one, on two years' notice.

It is to be noted that we agree to limit our armament in consideration on the fact that every other League member makes a similar promise as to its armament. Our reduction and limit are to be proportionate to those of other members. Their reduction lessens the necessity for our defense as does the compulsory reduction of the armaments

of our enemies in this war. We are not thus left "naked to our enemies," whether of this war or any future war, in any other way than that they are equally "naked" to us.

The necessity for reduction of armament to avoid danger of war has long been recognized and acquiesced in by all nations except Germany. We were among the most earnest in seeking a limit or reduction of armament at the Hague Conferences but Germany peremptorily refused. Are we now to change our attitude on this crucial question? Did we think that in urging it at the Hague we were to make ourselves "naked to our enemies" by entering such an agreement? Were we only hypocrites when we pressed it upon the conferees at the Hague?

If the great continental powers of Europe and Asia, where the danger of war is much more probable than here, can afford to limit their armaments by convention, can we not do so, when the Atlantic separates us from Europe, and the Pacific from Asia?

More than this, is there not a humorous phase of this objection when we consider the consistent course of this country since

the beginning of its history? In spite of the urging of Washington and many of his successors, we never have had an adequate armament until after war has come. Not even for mere police duty have we had a sufficient regular army in time of peace. From soon after the Civil War until the Spanish War, a period of thirty years, with Indian campaigns frequently recurring, for a people increasing from fifty to ninety millions, we had only 25,000 men in our regular army—and since the Spanish War, we have never been able to increase that army beyond one hundred thousand; while in all the details of proper preparatory equipment we were wanting.

We can be sure, therefore, that the Council will recommend a limit of armament for us that Congress, in time of peace, will never desire to exceed and will probably fall short of in actual practice. We should be justified in far more concern if the League imposed on us specific obligation as to a minimum armament.

But it is said that it is unconstitutional for our treaty-making power to agree to a limit

of armament. The Supreme Court in many cases has decided that the treaty-making power conferred in the constitution is a very broad one, and that it includes the making of contracts with other nations on any subject matter usually within the scope of treaty-making between nations, and that there are no limitations on it except that a treaty cannot change our form of government or cede land of one of our states without its consent. Now the limitation of armament has been a very frequent subject matter dealt with in treaties. Indeed, everyone recognizes that it is a most appropriate subject in this very treaty of which the League is a part in respect to the fixing of the armament of Germany. More than this, we have had a treaty with Great Britain for one hundred years in which we agreed to limit our armament, and we have religiously kept it—in 1817, we mutually agreed with Great Britain not to put a naval armament on the Great Lakes between us and Canada, and that treaty is still in force. It would be difficult to imagine a more convincing precedent than this. In the Clayton-Bulwer treaty of 1850, concerning the con-

struction of a canal in Central America from one ocean to the other, we mutually stipulated not to fortify the canal when built. Our power to limit armament in a treaty is thus indisputable in view of precedent and judicial authority. Our duty by joining with the family of civilized nations in such an agreement, to put a stop to the awful race in armaments, if unrestrained sure to involve the world again in all its evils, is equally clear.

(Letter No. 13)

ARTICLE X

Article X of the League Constitution provides as follows: "The members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all the members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which the obligation shall be fulfilled."

The law of the League with the sanction of the power of the League thus forbids the violation of the international commandment, "Thou shalt not steal by force." It is the embodiment of the principle that we entered and fought this war to maintain. It is the answer to the German doctrine announced through its philosophers, its military writers and its avowed policies, that "Might makes

right." It is the denial of the principle which Germany set forth in the summing up of her whole Imperial purpose, that conquest by force was essential to the progress of God's world, and that she was His instrument in such conquest.

We are met by the objection that the United States should not bind itself not to extend its beneficent influence in the work of civilization through conquest. Such objectors argue that in this way the United States has extended its useful dominion to the present borders of Mexico and to the Pacific Ocean. If this argument is sound, then the United States should certainly not enter the League. If we yield to it, we ought never to have entered upon the war against Germany. The argument is not in the slightest degree to be distinguished from that of the German philosophers and military men whose purpose Germany was carrying out in this war. If the improvement in civilization and its spread are dependent on war in its present form, involving for the future what is practically world suicide, then surely mankind is in a bad situation. Those who sup-

port the League may well leave to the people of the United States and the people of the world the decision whether they prefer a slower method of improving Christian civilization than by one which involves the cruel destruction of one-half the world in order to enable the other half to get on.

The second and the more persuasive objection which is urged to Article X is that it is likely to involve us in wars all over the world, and to require our soldiers to undergo suffering and hardships and to give up their lives in battles waged for remote countries in whose welfare we have but little interest. It is said it will prove to be a heavy burden both in life and treasure for our people.

In answering this objection it is to be noted that the operation of Article X to increase the other obligations of the League is comparatively small.

Under Articles XI to XVII inclusive, provision is made for the peaceful settlement of all threatening disputes between nations by safeguarding action of the League, by arbitration, by mediation and recommendation of

settlement, and by enforcement of covenants restraining war until three months after such machinery for peaceful settlement has failed. By Articles XVI and XVII a breach of such covenants is to be penalized by an immediate and universal boycott of the covenant-breaking nation and then by such military expeditions as the members of the League shall determine necessary on the recommendation of the Council. Unless, therefore, the external aggression in violation of Article X occurs three months after attempts at peaceful settlement under Articles XII to XV have failed so that the covenants of those articles are not broken by it; the penalizing provisions of Articles XVI and XVII would apply to the aggression, whether for the purpose forbidden in Article X or not. In other words, Article X only increases the obligations of the members of the League beyond those of Article XVI in respect of wars which do not violate the covenants of Articles XII, XIII or XV. Article X becomes practically important, therefore, only after the purpose of the war has been clearly disclosed. A war only for punitive purposes without taking territory

or overthrowing a government would not violate Article X

We have seen this exemplified in our construction of our own Monroe Doctrine. The Monroe Doctrine, as originally declared by Monroe, was Article X limited to the aggression of non-American nations against countries of the Western Hemisphere. When Spain attacked Chili during Mr. Seward's incumbency as Secretary of State and Chili called on the United States to defend her, Mr. Seward replied that our policy did not look to our defending an American state against any punitive war by a non-American power, but only against one intended to take territory or to destroy independence. Mr. Roosevelt laid down the same limitation of the Doctrine in the Venezuela case as to wars begun merely to collect financial obligations when they did not seek appropriation of territory or deprivation of independence.

The intervention of the League under Article X is, therefore, likely to be invoked only in cases where the victor in a war "legal" under Articles XII, XIII, and XV, seeks to impose terms on its enemy contrary to the

undertaking of Article X. In all other cases, resort to Article X will be unnecessary because action under it will have been anticipated under other articles. Article X, therefore, enlarges the scope of the obligations of the League much less than has been generally assumed.

Second, should a violation of Article X occur, and the Council advise a plan for fulfilling its obligation by the members of the League, this plan will have to be unanimously agreed upon by the Council. We have constantly one representative in the Council, who must thus join in advising the plan. We can reasonably assume, therefore, that the plan recommended will not involve us in military expeditions unreasonably remote or inconvenient, and that it will advise our action in that part of the world where we can most promptly furnish aid and in respect to wars in which by reason of proximity we naturally have a direct interest.

The discussion of this article will be continued in the next letter.

(*Letter No. 14*)

ARTICLE X (*Continued*)

There is a third answer to people who object that Article X is likely to involve us in wars all over the world.

Those who look to the successful operation of the League do not expect war at all. The obligation of the members of the League to impose in the first instance a universal boycott against a recalcitrant faithless member constitutes a most formidable threat against any member seeking to violate Article X or the covenants of the following Articles. Such a boycott will be a withering ostracism and isolation of a nation that few could endure. No single nation, unless it be the United States or some of the greater South American nations, could live if denied food and raw materials from the rest of the world, and if forbidden the use of a foreign market for the sale of their products.

Second, no nation would willingly face the overwhelming force of the world organized to punish it for violation of its covenants. The minatory influence of a world League with its members obligated to unite in economic pressure, and proposing if need be to use military force can hardly be exaggerated. Of course if a number of nations entered into a conspiracy to fight and subdue the rest of the world, then this minatory influence might not be controlling, but in that case all the members of the League would wish to join in the war, just as they did in this, and defeat such a conspiracy and vindicate the power of the League for its useful ends.

What we are now answering is the objection that there will be a lot of little wars all over the world, in which we shall be engaged, which will claim our money and our men. It is in restraint of the smaller war in which a large nation attempts to bully a weaker one that the minatory effect of the League will be so controlling. The result will be that the League having the power completely to suppress the bullying nation will not need to exercise that power. Indeed it is hardly

too much to say that the nations of the League will never need to go beyond the effective discipline of a universal boycott. But if such a war does break out in which we shall deem it our duty to intervene under Article X, or the other articles, one instance of suppression by the joint forces of the League will be a lesson for the world, not needing repetition. It will be worth all it costs in demonstrating that the way of the transgressor who breaks the Covenants of the League will be hard.

This conclusion as to the minatory effect of the covenants of the League and the organization of its members to enforce them does not rest merely on an *a priori* reasoning. We have in our own history a striking confirmation of it. In 1823, the Holy Alliance consisting of all the powerful nations of Europe, except Great Britain, gave indication of an intention to aid Spain in recovering her lost colonies in this Western Hemisphere. We had recognized the independence of those colonies. Canning, the British Minister for Foreign Affairs, urged upon President Monroe and John Quincy Adams, the Secretary

of State, the wisdom of uniting with England in a League to resist the Holy Alliance in overthrowing the independence of these new American states. Thomas Jefferson was consulted, and he advised making a League with England, which he said would not be an entangling alliance against which he had warned his countrymen, but would be justified by its great public purpose. Monroe and Adams, however, thought it wiser to act alone. John C. Calhoun, the Secretary of War, advised strongly against sole action. Nevertheless, President Monroe in his Message of that year made the declaration which has since been known as the Monroe Doctrine, and notified the members of the Holy Alliance that the United States would regard any attempt on their part to overthrow an independent state in the Western Hemisphere as against the interest of the United States which we should resist. Calhoun and others thought that such a declaration and policy would certainly involve us in many wars.

What has been the result? For now nearly a century, the Monroe Doctrine has been maintained inviolate through a constant as-

sertion of it by succeeding administrations and without firing a shot or the loss of a single soldier. During the Civil War, Napoleon III did attempt to violate it by setting up Maximilian in Mexico as an Emperor. As soon as our hands were free, however, and we were able to send Sheridan with an army to the Mexican border, Napoleon withdrew his French troops and Maximilian collapsed. If such a threat by the United States alone, not always so strong as she now is, maintained inviolate a declaration like the Monroe Doctrine for a century, it follows *a fortiori* that the declaration of the League uniting the power of the world in proposed maintenance of a similar doctrine will be equally effective, and that it will not involve the members of the League in any more wars than we have been involved in by reason of the Monroe Doctrine.

Finally, it is objected to Article X that it is too rigid, that progress of the world may need rearrangement of boundaries, and enlargement of one country and a reduction of another or the creation of new states. Article X does not forbid changes in boundaries or the enlargement or reduction of states or

the establishment of new states. All that it forbids is the taking of territory by force from a member of the League, or overthrowing its government by violence. Article X does not protect any nation against internal disturbance, rebellion or revolution. It does not prevent the division of states by these means. The objection assumes that war by one existing nation upon another is necessary to the progress of the world to secure useful changes in boundary. We need not deny that a war of aggression may achieve a useful end, but the basis upon which the League rests is that such advantages are outweighed by the suffering in modern war and the possibility that a small war may lead to a general war and an enormous damage to civilization. The effort in the formulation of the present treaty is to make just boundaries and the effect of Article X will doubtless be to maintain those boundaries in so far as to prevent foreign aggression from affecting them.

The suggestion that Article X was intended to bring to the aid of Great Britain the power of the United States to suppress a revolution in Ireland is of course wholly unfounded, be-

cause a revolution in Ireland would not be an attack upon the territorial integrity or political independence of Great Britain *by external aggression.*

The insinuation against Article X that Great Britain secured it in order to get the aid of the United States and other members of the League to defend and protect "her far-flung empire" is also without basis. No war in the last century has been begun against Great Britain to take away territory from her. Neither she nor the United States would feel called upon to invoke the defense of the League to protect their boundaries. They can defend themselves. No other state is likely to attack them, with the purpose of violating Article X. The reason for Article X is the protection of weaker nations against stronger ones. Great nations are seldom attacked except in case of a conspiracy like that of this present war, and when such a conspiracy exists, all of the members of the League will be anxious to join in its suppression. Article X is one of the great steps forward provided in the League for the securing of general peace.

(Letter No. 15)

ARTICLES XI, XII, XIII

Article XI proclaims the great doctrine of the community of interest in the universal maintenance of peace. It contains the basic principle of the League, worked out in practical form by the other articles; that peace and friendly relations among nations are the concern of all free peoples; that these peoples are justified in protecting one another and in maintaining order in the world for the common good; and that international morality, fair dealing and respect for the rights of others are duties which every country owes to mankind, and which mankind is entitled to expect and demand.

Article XII embodies the substance of the agreement made by the Bryan treaties with a score of nations. It is the culmination of principles for which the United States has long stood. With some exceptions, mostly

of small countries, the United States has concluded such treaties with all the states named in the Annex to the Covenant as admitted to the League, or has signed with them treaties which only await formal ratification; and the effect of this article is to cause them to make with one another the agreement for arbitration before war which we have negotiated with each of them.

This article, like the Bryan treaties, is based upon the idea that delay is in itself of great value, quite apart from any compulsion to abstain from war after an award has been made. It removes the opportunity for a sudden attack upon an unprepared victim, and it gives a chance for a calm consideration of the consequences of war, instead of the rush of excitement that comes when a nation is plunged into a conflict without reflection.

But the Covenant goes farther by attaching some compulsion to the award, or rather by protecting the nation which complies with its terms. By Article XII the members of the League must submit any dispute between them, likely to lead to a rupture, either

to arbitration or to inquiry by the Council. If they agree that the case is suitable for arbitration they agree further by Article XIII to carry out the award. Now by Article XXI of the Covenant it is provided that this shall not affect the Bryan treaties. But under those treaties the parties are not bound to carry out the award, and one may ask whether this article imports into them an obligation to do so. Clearly it does not, because those treaties cover controversies of all sorts, including such as the nations involved might not be willing to submit to arbitration with a duty of that kind attached; while Article XIII deals only with arbitrations voluntary in each case and accompanied by an agreement to carry out the award. Nevertheless, the provisions of this Covenant certainly prevent a nation dissatisfied with an award under the Bryan treaty from going to war without submitting the dispute to inquiry by the Council. The Bryan treaties furnish therefore an additional means of reaching an accord, but it is not intended that they should impair the guarantees of peace in the Covenant.

The second clause of Article XIII gives examples of the kind of questions deemed suitable for submission to arbitration. They are such as depend upon issues of law or fact, including the interpretation of treaties—matters that can properly be decided by a court on strict legal principles. They have been termed justiciable questions, in contradistinction to those which are not purely legal but involve divergencies of national interests and policy. These last are political in their nature and must be adjusted or compromised on grounds of international fair dealing and expediency.

The two classes of questions had better not be confused, but each referred to the body most appropriate for its consideration; but a difficulty may arise in deciding whether a question is justiciable or not. One of the parties may well claim that an act performed or threatened by the other, while not strictly a breach of international law, is one which affects its vital interests or security, and that to submit the question to a tribunal to decide on purely legal grounds is to abandon its claim. If Turkey, for example, had pro-

posed before the war to transfer to Germany a tract of land near the Suez Canal, England would have had no legal right to prevent it; but it would have been an act to which she would have been justified in objecting, and her objection would have been sustained in an international council, although not by a court of law. In Anglo-Saxon countries, where courts are in the habit of deciding questions of their own jurisdiction, it would seem natural to authorize the judicial tribunal of the League to decide whether a question is justiciable or not; but on the Continent of Europe the ordinary courts of law have, as a rule, no such power. In those countries there are habitually two classes of courts; one to decide questions of private law between citizens, and the other to decide cases in which the duties of administrative officials, or the interests of the government, are involved. When a difference of opinion on the question of jurisdiction arises between these courts, it is decided by a Court of Conflicts composed of members drawn from both. If a nation does not suffer its own courts of law to determine their jurisdiction, one can

hardly expect that it would allow an international tribunal to do so.

Probably for this reason the Covenant, while making plans for a judicial tribunal and setting up a Council of statesmen, does not provide that all justiciable questions shall be submitted to the first and all other matters to the second, but allows any state to claim in effect that the question is not justiciable and to require its reference to the Council. This is not the best arrangement conceivable, but it is far better than having no method of settling disputes except military force.

(*Letter No 16*)

ARTICLES XIV and XV

The Council is directed by Article XIV to formulate plans for a permanent Court of International Justice. Those who are familiar with the debates on this subject at the Hague Conferences, and the difficulties encountered there in reconciling the claims of the large and small nations, will understand why no attempt was made to work out a complete plan and embody in it the Covenant, but the composition of the Court was left for future and more extended discussion by the Council.

Resort to this court is not made obligatory. It is to be established as a tribunal to which disputes of a justiciable character can be submitted for decision by consent of both parties. It has also another significant function, for it consists of a body of jurists whose opinion may be sought by the Council

or the Assembly in matters that come before them.

Although the members of the League do not agree to submit disputes that may arise between them to this court or to arbitrators, they must submit them to some organ of the League. They agree not only to abstain from war without such a submission, but positively also to submit any dispute likely to lead to a rupture to inquiry by the Council or Assembly, if it is not submitted by consent to arbitration; and either party to the dispute may demand the inquiry. The matter stands thus. For arbitration (compliance with the award being involved), the free consent of both parties is required; for inquiry the demand of either; but at the request of either party the case is laid before the Assembly instead of the Council. The Assembly thus stands in the position of a jury at Common Law. Neither party to the dispute can refuse the inquiry, but either can claim this form of trial.

When a dispute is referred to the Council it begins its work not in a judicial capacity, but as a mediator. It seeks, not to decide

the dispute, but to effect a settlement, which will often involve a compromise. In contradistinction to a strictly judicial procedure, which ought to be public, a mediation is more likely to be successful if the parties do not commit themselves publicly. It is often easier to bring the disputants to an accord if the negotiations are private; and if an amicable settlement is reached it is not always necessary to make public the concessions by which it was attained. In such a case, therefore, the Council is given discretion to publish what it may deem appropriate.

If the dispute is not settled by consent of the parties the function of the Council is changed. It becomes an arbiter instead of a mediator, and publishes a report with recommendations stating what it deems the just and proper action for the parties to take. If the Council is unanimous (except for the parties concerned) the recommendation has a binding effect to this extent, that while there is no obligation under the Covenant to carry it out, there is an express agreement not to go to war with any party which complies with it. Even after a unanimous

recommendation war is not absolutely prevented, for the nation against which it is made may refuse to comply with it, and there may be resort to arms. War in such a case is not, as some people have asserted, authorized, but it is not subjected to a penalty. Unless the nations are prepared to enforce compliance, and at present they are not, the prevention of war can hardly be carried farther. But it may be observed that after a unanimous report, which would undoubtedly be supported by the public opinion of the world, the cases in which a nation failed to comply would be very rare.

Where the recommendation is not unanimous the danger is greater. In effect no judgment has been rendered; all the states represented on the Council may publish their opinions; and the members of the League reserve the right to take such action as they think right. In short, the efforts of the League to adjust the dispute have failed. But again we must remember that even in such a case war is improbable. Time will have been given for calm consideration and the efforts of all the countries not directly

involved will be exerted to avoid war—influences that are powerful for peace.

When the dispute is referred to the Assembly the same rules apply, except that a recommendation is effective if supported by the representatives of all the states with seats upon the Council and a majority of the rest.

Only one other provision of this Article remains to be considered. To obviate the fears of many Americans that such matters as immigration and tariffs might, as subjects of dispute, be brought before the Council and the authority of the nation over them be impaired, a clause was inserted, that if either party claims, and the Council finds, that the matter in dispute is one "which by international law is solely within the jurisdiction of that party, the Council shall so report and make no recommendation as to its settlement." This clause inserted for that express purpose would seem to cover the point completely. Nevertheless it is objected that the Council may differ in opinion from the United States and thus our legislative rights may be restricted. To such an objection there are two answers. In the

first place, the desire of other countries to preserve their internal independence is as strong as our own. It is inconceivable that the other states represented on the Council should unanimously decide that the tariff, or any other internal matter that we claim to regulate for ourselves, is not a domestic affair—and it is only unanimously that an effective judgment against us could be given. In regard to the most sensitive point of all, that of immigration, if England were to vote that it was not under domestic control, it might break up the League, but, in view of the feeling in Canada, South Africa and Australia, it would certainly disrupt the British Empire. The second answer is that one cannot make a contract and insist that the interpretation of it shall always be in one's own hands. The clause is perfectly definite, its object is perfectly understood; and if we can trust none of the other principal members of the League to act honestly, fairly and reasonably let us make no league with them, and leave the world in the state of mutual suspicion, distrust and suppressed hostility that is a discredit to civilization and a curse to mankind.

(*Letter No. 17*)

ARTICLE XVI

The world war has brought home the need of having behind international obligations a sanction that shall make them a binding force, instead of engagements which a faithless nation can break with impunity. Without Articles X and XVI the League would be no more than an agreement on the part of the members that they would do right, with no compulsion for those that broke their word. These Articles make it a real association to maintain and enforce peace.

The two Articles must be read together. To a large extent they cover the same ground, and provide for the same contingency, Article XVI declaring in part how the obligations of Article X are to be carried out; and yet they do not wholly coincide. Cases may arise which bring one of them into effect, but do not touch the other. If, for example, an

arbitral award, let us say on a question of ill treatment of citizens, is made in favour of one nation with which the other fails to comply, the first may, to compel compliance, attack the second without incurring the penalties of Article XVI, because in so doing it is not resorting to war in disregard of its covenants. But the first nation would not be at liberty to destroy the independence or annex the territory of the second. That would entail the obligation of Article X. On the other hand, a war begun without submission to arbitration or inquiry would be a violation of Article XVI, but not of Article X if it did not involve the integrity or independence of the country attacked. This was true of our war in 1812; and on the same principle President Roosevelt took the ground that hostilities by European nations to collect claims against Venezuela did not violate the Monroe Doctrine if no annexation of territory or destruction of independence was contemplated.

Article XVI declares that if any member of the League should resort to war in disregard of its covenants "it shall *ipso facto* be deemed to have committed an act of war against all

other members of the League, which hereby undertake immediately to subject it" to a boycott and blockade, and to do certain other things. Now it must be observed that this sanction is automatic on the part of the members of the League. In case of a resort to war contrary to the Covenant, they undertake jointly and severally to subject the offending nation to the prescribed penalty immediately—not if and when directed by the Council. That body has no power to order or to release the obligation which is assumed as a mutual guarantee. If France, for example, should be attacked by Germany she would have a right to call upon us, and all the other members of the League, to sever all trade and intercourse with Germany, and we should be bound by the Covenant to do whatsoever the Council might think. The obligation is absolute, and the Council has nothing to do with the matter, except to recommend what, if any, military and naval forces the members of the League shall severally contribute.

The members of the League agree that an attack made in disregard of the Covenant

upon any one of them shall be deemed an act of war against all of them. This, while justifying any of them in going to war with the aggressor, does not oblige them to do so; but they do agree to subject it to treatment of a hostile nature; and also to give to any of their number that is actually engaged in the war aid that by international law is given only to a co-belligerent. They agree to boycott the offender completely, to blockade it by sea and land, to support one another financially and economically, to aid in resisting any special measures aimed at one of their number, and to afford a passage through their territory to the troops of any of the members that are fighting the offender.

To some people it would seem better to have agreed boldly that all the members of the League should immediately declare war on the aggressor. The situation would thus have been made plain; but it would not in fact have been very different. If the aggressor were a small country a pacific blockade would be enough, and other military operations by the members of the League or at least by those at a distance, would not be needed,

either under the Covenant as it stands, or under an express agreement to declare war. If, on the other hand, the aggressor were a large and powerful nation the measures required by the Covenant would practically be certain to bring about collisions and shortly actual war with all the principal members of the League. There would, indeed, be an advantage in providing that an unjustifiable attack on one member of the League should involve immediate war with all the rest. The object of the sanction is not to punish, but to deter; and the greater the certainty of meeting with an irresistible armed force the less the danger that any ill-disposed nation will venture to precipitate a conflict. The proposed defensive alliance of England, France and the United States against Germany would have that effect.

Other people criticize the Covenant from the opposite standpoint. They complain that it may bring us into a war in the causes of which we are not directly concerned, and that our young men may be sacrificed in foreign quarrels. Often without being conscious of it, these critics are ultra-pacifists, for

they shrink from using the force necessary to prevent war in the world. They are like people who should object to a police force, created to maintain order in the streets, for fear that the policemen might get hurt. If we believe in preventing war we must use the means necessary to do so. We must be willing to risk a small sacrifice to insure against a larger one.

(*Letter No. 18*)

ARTICLES XVII–XX

The object of the League is to prevent war, not only among its members, but also by, against or between nations outside of the Covenant; and Article XVII is aimed at such cases. The outside nation engaged in a dispute, even if of a character that threatens war, is not treated as an outlaw, but is offered for the purpose of the dispute the benefits, as well as the obligations, of membership in the League. If it accepts the invitation it obtains the same protection as a member from attack by its adversary whether within or without the League; and if there is a voluntary submission to arbitration it has the same right as a member to demand that the award be carried out. This is certainly treating the outsider fairly.

On the other hand the outsider, whether it accept the invitation or not, is restrained

from attacking a member by the same penalties that would be applied to a signer of the Covenant. In other words, the members agree to help one another against attacks from outside as well as against those from one of their own number. They could hardly do less.

When the controversy is between two outsiders both are invited to join the League for the purpose of the dispute. If either of them accepts, the position is exactly that already described, because the one accepting has for this purpose the standing of a member of the League. If both refuse the obligations of membership cannot be directly applied, but hostilities must be prevented, and the Council is authorized to take such measures and make such recommendations as will prevent them. Since the Council has no forces under its orders and cannot command those of its members without their consent, the measures it can take must be of a diplomatic nature, to be followed by recommendations for the use of force if necessary. But practically this will not happen, because it is highly unlikely that both of the outside nations

desire war, and the one that does not will certainly accept the invitation of the League.

This method of preventing war with or among non-members is both fair and ingenious. They are subjected to the penalties and are offered the benefits of membership, except that a temporary membership gives no consultative voice in the general management of the League. Hence there will be a decided advantage in entering the League permanently, and an inducement for every trustworthy nation to do so; until it becomes an association of all truly self-governing countries to maintain the peace of the world. Hence also the power of expulsion, conferred upon the Council by the last clause of Article XVI, becomes a serious penalty that will go far to secure the carrying out of arbitral awards and the observance of all the other obligations of the Covenant.

The object of Article XVIII requiring treaties or engagements to be registered with the Secretariat and published is simply to prevent secret treaties and especially secret military alliances. It is wholly in accord

with our national traditions. Some people have suggested that an honourable country which has made a secret treaty will feel bound in honour to execute it, and therefore the provision that such a treaty shall not be binding will have no effect. To this there are two answers. First, that an honourable country will not make a secret treaty contrary to its agreement in the Covenant. Second, that in the free nations of the League treaties cannot practically be carried into effect without the action of the representative legislative bodies, and these might naturally resent a secret treaty made without their knowledge in violation of the Covenant; might very properly regard it as unauthorized, and refuse to carry it out. A change of the party in power might well result in its repudiation; for such a treaty would be a fraud, not only upon the other members of the League, but also upon the legislature and people of the country that made it. A secret treaty would be a dangerous thing for a government to undertake, and a dangerous thing for the other nation to rely upon. Therefore it is not likely to be made.

The criticism that in the United States a treaty is made when the ratifications are exchanged has no weight as an objection to this provision, because the exchange can be made when the treaty is delivered to the Secretariat of the League, as a deed of land is often delivered at the registry of deeds.

Article XIX, which authorizes the Assembly to advise the reconsideration of treaties that have become inapplicable and the consideration of international conditions endangering the peace of the world, needs no explanation. It gives power merely to discuss and suggest, and is part of the Assembly's general function of debating international relations, especially such as may threaten war.

Article XX, providing for the abrogation of all obligations between members of the League inconsistent with the Covenant, and forbidding any such hereafter, is merely an express declaration of what would be otherwise implied. Clearly if a nation enters into this Covenant—which is a treaty—it agrees not to do anything incompatible there-

with, and *a fortiori* not to agree to do something inconsistent therewith. The further agreement to seek release from any prior inconsistent treaty with a non-member is what any honourable nation would do.

(*Letter No. 19*)

ARBITRATION

Senator Lodge objected to the original League Covenant upon the ground that it bound us to submit every possible international dispute or difference either to the League court or to the control of the Executive Council of the League. Senator Root, on the other hand, objected that it abandoned the principle of compulsory arbitration for which the American delegation contended in the Second Hague Conference, and failed to establish a permanent court of arbitration. By the revised Covenant (Article XII),

The members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council, and they agree in no case to resort to war until

three months after the award by the arbitrators or the report by the Council.

This provision clearly adopts the principles contended for by the American delegates to The Hague. It is supplemented by Article XIII, whereby it is agreed that whenever any dispute shall arise between members of the League, which they recognize to be suitable for submission to arbitration, and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject matter to arbitration; and by Article XIV, which requires the Council to formulate and submit to the members of the League for adoption plans for the establishment of a permanent court of international justice, which shall be competent to hear and determine any dispute of an international character which the parties may submit to it, and which may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

Senator Root urged an amendment by which the members of the League should agree to refer to arbitration all disputes of a justiciable character, which he defined to be

disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which, if established, would constitute a breach of any international obligation, or as to the nature and extent of the reparation to be made for any such breach.

The revised Covenant, without specifically adopting that definition, in Article XIII, declares all disputes of the character mentioned by Senator Root to be

among those which are generally suitable for submission to arbitration;

and further, that for the consideration of any such dispute, the court of arbitration to which the case is referred shall be the court agreed on by the parties to the dispute, or stipulated in any convention existing between them. If, however, the parties to any such dispute should fail voluntarily to submit it to arbitration, they are bound, by Article XV, to submit it to the Council. In that event, the Council is to endeavour to effect a settlement, and if it fail to do so, then it may either unanimously, or by a majority vote, publish a

report containing a statement of the facts of the dispute and the recommendations deemed just and proper in regard thereto. If the report is unanimously agreed to by all the members of the Council, except those representing the disputants, the members agree not to go to war with any party to the dispute which complies with the recommendations of the report. The Council may also refer any such dispute to the Assembly, and shall so refer it at the request of either party made within fourteen days after the submission of the dispute to the Council. In that event the provisions of Articles XV and XVI relating to the action and powers of the Council shall apply to the Assembly, provided that the report in order to have the same effect as the unanimous report of the Council must be concurred in by the representatives of those nations which are represented on the Council and of a majority of the other members of the League,—exclusive, of course, of the disputants, in each case.

The defect in this plan is that it fails to lay down any rule binding upon the Council or the Assembly for the determination of dis-

putes of a justiciable nature. This omission is somewhat emphasized by the provision in Article XV, that

> if the dispute between the parties is claimed by one of them, *and is found by the Council* to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.

In this case, the Council must be governed in its decision by international law, whereas there is no such provision in express language made binding upon the Council or Assemby with respect to arriving at their recommendations or report concerning disputes, even of the nature described in Article XIII, and defined by Senator Root as justiciable.

But it can hardly be imagined that the Council would decide, except upon well-recognized principles of international law, any dispute which involves the interpretation of a treaty, a question of international law, breach of international obligation, or damages from such breach. It also may reasonably be assumed that there will grow

up in the application of these provisions a body of precedents which in themselves will constitute codifications of international law, and thus carry out one of the purposes expressed in the preamble; namely, the firm establishment of the understandings of international law as the actual rule of conduct among governments.

Article XVI provided that should any member of the League resort to war in disregard of the covenants above referred to, it shall *ipso facto* be deemed to have committed an act of war against all the other members of the League, involving as a consequence one or all of the following penalties: (1) the severance of all trade or financial relations and the termination of all intercourse between the members of the League and the covenant-breaking state; (2) the expulsion from the League of the covenant-breaking state, and (3) such military and naval action as may be agreed upon by the League.

The amended Covenant certainly has not weakened the provisions of the original Articles XI, XII, XV and XVI, concerning which Senator Root wrote,

I think those provisions are well devised and should be regarded as free from any just objection so far as they relate to the settlement of the political questions at which they are really aimed. The provisions which taken together accomplish this result are of the highest value. They are developed naturally from the international practice of the past. They are a great step forward. They create an institution through which the public opinion of mankind, condemning unjust aggression and unnecessary war, may receive effect and exert its power for the preservation of peace instead of being dissipated in fruitless protest of lamentation.

Indeed, the revised Covenant obviously aims at a wider field, and embraces within its scope the settlement, not only of political, but of legal questions as well. It is, therefore, a great improvement upon the original scheme.

(*Letter No. 20*)

HISTORICAL BACKGROUND

The second Hague Conference in 1907 agreed upon a convention for the pacific settlement of international disputes. It established a Permanent Court of Arbitration to sit at The Hague, and it provided that

in questions of a legal nature and especially in the interpretation or application of international conventions arbitration is recognized by the contracting powers as the most effective and at the same time the most equitable means of settling disputes which diplomacy has failed to settle. Consequently, it would be desirable that in disputes about the above mentioned questions the contracting parties should, if the case arose, have recourse to arbitration insofar as circumstances permit.

The United States Senate, in ratifying this treaty on April 2, 1908, did so with the following proviso, namely:

Nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions of policy or internal administration of any foreign state; nor shall anything contained in the said convention be construed to imply a relinquishment by the United States of its traditional attitude toward purely American questions.

And further:

That the United States approves this convention with the understanding that recourse to the permanent court for the settlement of differences can be had only by agreement thereto through general or special treaties of arbitration heretofore or hereafter concluded between the parties in dispute.

It further declared that the United States exercised the option contained in Article LIII of the convention, which excluded from the Permanent Court the power to frame the submission for arbitration required by general or special treaties concluded, or thereafter to be concluded, by the United States,

and specified that the submission required by any treaty of arbitration to which the United States should be a party must be settled by a special agreement between the parties, unless the treaty should otherwise expressly provide.

Following the Hague Convention, Secretary Root negotiated a series of separate treaties with different countries, whereby it was agreed—all in substantially the same form—that differences which might arise between the parties of a legal nature, or relating to the interpretation of treaties, which it might not have been possible to settle by diplomacy, should be referred to the Permanent Court of Arbitration established by the Hague Convention, provided they did not affect the vital interests, the independence, or the honour of the two contracting states, and did not concern the interests of third parties. These treaties further provided that in each individual case the contracting parties should conclude a special agreement defining the matter in dispute which was to be submitted to arbitration, which agreements should be made by the

President by and with the advice and consent of the Senate. Most of these treaties were limited to a period of five years; a number of them have since been extended, and are now in force. The countries with which they were made include among others Great Britain, France, Italy, Japan, Spain, Sweden, Switzerland, Norway, Brazil, and Equador.

During the Taft Administration, Secretary Knox negotiated treaties with Great Britain and France, whereby it was agreed that all differences relating to international matters in which the high contracting parties are concerned by virtue of a claim of right made by one against the other, under treaty or otherwise, and which are justiciable, by reason of being susceptible of decision by the application of principles of law or equity, shall be submitted to arbitration at The Hague. These agreements constituted treaties of arbitration which bound the contracting parties to submit all questions of the character mentioned to arbitration by The Hague tribunal. They went further, and provided that questions of difference

arising between the parties, not of the character which it was agreed should be submitted to arbitration, should be investigated by a joint high commission to be constituted in accordance with the provisions of the treaty, and bound the parties not to go to war over such questions until one year after the report of the commission. But the Senate, while voting on March 5, 1912, to ratify these treaties, amended them in certain particulars, and in the resolution of ratification, reserved from their operation questions affecting the admission of aliens, the territorial integrity of the several states of the United States, the alleged indebtedness or monied obligations of any state, and any question which depends upon or involves the maintenance

of the traditional attitude of the United States concerning American questions commonly described as the Monroe Doctrine, or other purely governmental policy.

This amendment, however, was not accepted by President Taft, and therefore neither of the treaties became effective.

Under the Wilson Administration, Secretary Bryan negotiated a series of treaties in 1913-1914, with twenty-one different countries, which were ratified by the Senate without any reservation whatever, whereby the high contracting parties agreed

that all disputes between them of every nature whatsoever, which diplomacy shall fail to adjust, shall be submitted for investigation and report to an international commission to be constituted in the manner prescribed

in a designated article of the treaty. They further agreed not to declare war or begin hostilities over any such question during such investigation and report.

Article XXI of the Revised Covenant expressly declares "Nothing in this Covenant shall be deemed to affect the validity of international engagements such as treaties of arbitration." This provision adopts one of Senator Root's proposed amendments to the original Covenant.

In view of this history, it is but a conserva-

tive step forward now to agree with all the other powers composing the League of Nations to refer to arbitration any justiciable dispute which may arise with any of them, and to submit to the Council for investigation and report any question of a different character, and also not to resort to war until either arbitration or investigation shall have been concluded, and even then, not to make war against a party which shall comply with an arbitral award, or the unanimous recommendation of the Council.

(Letter No. 21)

THE MONROE DOCTRINE

Article XXI of the revised Covenant of the League provides as follows:

> Nothing in this covenant shall be deemed to affect the validity of international engagements such as treaties of arbitration or regional understandings like the Monroe Doctrine for securing the maintenance of peace.

It is asserted that this article does not adequately reserve the Monroe Doctrine because it is not a "regional understanding" and its purpose is not the "maintenance of peace." It is also objected that although the Monroe Doctrine is a national policy, any dispute concerning its reservation in Article XXI shall be submitted to the League for arbitration or examination under Articles

XIII or XV. The reason for these objections disappears upon an examination of the general purpose of the League and the character and effect of the Monroe Doctrine.

In 1823 a number of South American states, having thrown off the yoke of Spain, had become independent republics. It was believed that the European powers constituting the Holy Alliance were planning to overturn the independence of the new states and by making them colonies of a European state to introduce in this hemisphere the autocratic monarchical principle. It was to frustrate such a design that President Monroe in his annual message to Congress said:

> We should consider any attempt on their part (the part of European powers) to extend their system to any portion of this hemisphere as dangerous to our peace and safety.

and

> We could not view any interposition for the purpose of oppressing them (the young American Republics) or controlling, in any other manner, their destiny, by any European power, in any other light

than as the manifestation of an unfriendly disposition towards the United States.

The principle of the Doctrine thus proclaimed has been so developed during the last hundred years that it now includes the prohibition of attempts by foreign nations, whether by war or purchase, or diplomatic intrigue, to make territorial acquisitions or establish new strategical footholds, upon or near the Western Hemisphere or to secure political advantage in the domestic affairs of American nations.

The Monroe Doctrine is not a principle of international law. It is a national policy based upon the right of every nation to protect itself against acts tending to embarrass it in preserving its own national interests or political institutions. It is founded upon the same right as the familiar concert of European powers, except that it affects a greater number of nations more widely separated geographically, and is asserted by a single powerful nation able, without the sanction of treaty stipulations, to maintain it. It does not become effective so much by

the acquiescence of the American nations subject to its operation as from its recognition by nations of other parts of the world as a political policy which cannot be disregarded by them except at the risk of war with the United States. Since the Monroe Doctrine is thus based upon an inherent national right, it is entirely consistent with the principle of mutual self-protection, underlying Article X of the Covenant of the League which seeks to check threatened "external aggression" affecting "the territorial integrity and existing political independence of all members of the League."

While doubtless Article X was designed primarily to give protection to the seven new European republics and the four autonomous nations in the Near East, created under the Treaty of Peace, and probably also to France and Belgium in its broader aspect it was intended, to use the words of the Preamble of the Covenant, "to achieve international peace and security" by discouraging hostile aggression everywhere; and so far as it prevents a European or an Asiatic nation from interfering with the territorial integrity or

the existing political independence of any nation of the Western Hemisphere, it accomplishes in that part of the world precisely the result aimed at by the Monroe Doctrine. And, furthermore, quite independently of the new Article XXI, the United States would undoubtedly be the nation called upon under Article X to repel an aggression upon an American state, because, not only would its political interest be immediately involved, but also because, by reason of territorial proximity, it could most conveniently act.

It is in the light of these effects of Article X that the express recognition of the Monroe Doctrine in Article XXI should be examined.

It is argued that the Doctrine itself is inadequately reserved by referring to it as a "regional understanding." It need not be denied that this descriptive phrase was not the best that could have been selected to define the Monroe Doctrine, although the Doctrine is "regional" in that it relates to a particular region and is an "understanding" in that it is widely accepted by the nations of the world. Probably the draftsmen of Article XXI, the majority of whom were

European statesmen, thought it unwise to attempt to formulate a definition of an American political policy, concerning the limitations of which American statesmen have not always themselves agreed. But the important thing is that the Monroe Doctrine is declared to be "valid," thus rendering its continued existence unaffected by the Covenant; and, as the common understanding in this country of its character and effect is consistent with the principle of the general purpose of the Covenant, as indicated in Article X and the other articles designed to preserve the peace of the world, it is a far cry to argue that the somewhat inept use of the phrase "regional understandings" indicates that the high contracting parties intended by indirection to raise doubts as to the complete reservation of the Doctrine.

(*Letter No. 22*)

MONROE DOCTRINE (*Continued*)

No definition of the Monroe Doctrine having official sanction has ever been given except by Presidents or Secretaries of State; and, except in the few concrete cases that have required its application, they have generally contented themselves with describing its historical origin and the general principle on which it is founded. Even the Senate, in ratifying the Hague Convention of 1907, and in seeking to reserve the Monroe Doctrine, referred to it as our "traditional attitude toward purely American questions," leaving the character of that "attitude" as much subject to question by the signatories as it had been before the reservation was made. And, although, on the one hand, Secretary Olney in 1895, in the Venezuelan controversy, said: "To-day the United States is practically sovereign on this continent and its fiat

is law upon the subjects to which it confines its interposition"; on the other hand, President Roosevelt in 1901 said that the Monroe Doctrine did not prevent foreign nations from collecting by force debts owing by American nations; and in 1866 this country refused to protect Chili when Spain was bombarding her ports, because it would not intervene in wars between European and American states "if they are not pushed . . . to the political point."

These references serve to point out the difficulty of an attempt in any diplomatic document to *define* the Monroe Doctrine.

But however inept it may be to refer to the Monroe Doctrine as a "regional understanding," Article XXI correctly describes it as "securing the maintenance of peace." It was of the essence of the Doctrine that foreign nations should not be permitted to implant among the nations of the Western Hemisphere autocratic principles of government lest they should become a menace to the free institutions of the United States, and we might again have to resort to arms for the maintenance of the principles settled

by the Revolution; and in practice the dominance of this country in the affairs of the Western Hemisphere has undoubtedly saved it from repeated exploitation at the hands of European and Asiatic nations. The frequent revolutions in South and Central America, often accompanied by the seizure of power in the name of liberty by disloyal and unscrupulous dictators, would have afforded tempting opportunities to European autocracies at small expense and by the use of a merely nominal force, to secure a permanent foothold upon this continent, gradually establishing colonies which would have become a menace to our republican institutions, or at least a source of national disquietude. All of this has been prevented without the use in a single instance of military force by the Monroe Doctrine, which is, therefore, aptly described in Article XXI as "securing the maintenance of peace."

But if the Senate is of the opinion that the use of the words "regional understanding" creates any doubt as to the meaning of Article XXI, it can, in ratifying the treaty, make a declaration that its action is taken un-

der the reservation that the Covenant is to be so construed as to leave the Monroe Doctrine unaffected. In view of the general purpose and effect of the League, referred to above, such a reservation would not be regarded as a substantial amendment of the Covenant. Upon this point the official commentary of the delegates of Great Britain upon the revised Covenant is particularly pertinent. They refer to the Monroe Doctrine and similar understandings as having "shown themselves in history to be not instruments of national ambition but guarantees of peace," and add:

The origin of the Monroe Doctrine is well known. It was proclaimed in 1823 to prevent America from becoming a theatre for intrigues of European absolutism. At first a principle of American foreign *policy*, it has become an international *understanding* and it is not illegitimate for the people of the United States to say that the Covenant should recognize that fact.

In its essence it is consistent with the spirit of the Covenant, and, indeed, the principles of the League as expressed in Article X represent the extension to the whole world of the principles of

this Doctrine, while should any dispute as to the meaning of the latter ever arise between the American and the European powers, the League is there to settle it.

This commentary receives especial force from the facts that England had a close historical connection with the proclamation of the Monroe Doctrine in 1823 and that in the Venezuelan dispute the most advanced claim as to the scope of the Doctrine was sharply called to her attention. No delegation at the Peace Conference probably understood better than that of Great Britain how the Monroe Doctrine was intended to be affected by Article XXI.

As the "validity" of the Monroe Doctrine is not "affected" by Article XXI, the Doctrine is excluded from the operation of the Covenant. If, therefore, a case within the principle of the Doctrine should arise it would not be within the jurisdiction of the League. Even if a question whether the Doctrine extended to a particular situation could be made the subject of inquiry under Article XV, there could be little doubt of the result;

for, if we except a few cases where doubt has existed as to the applicability of the Doctrine, and the belated assertions of President Carranza that it is non-existent, it is now understood by all the nations of the world.

But it is too late to have forebodings on account of the remote chance that a question concerning the Monroe Doctrine may have to be submitted to arbitration or inquiry under the Covenant, for, by the Bryan treaties, ratified by the Senate in 1914 and 1915, we have already agreed with Great Britain, France, Italy and six other European nations, as well as with Chili, Brazil, Peru and seven other American states, that all disputes of an international character, including those affecting national honour and vital interests, such as the Monroe Doctrine, shall be submitted to an International Commission for investigation and report, and that pending such report war will not be declared or hostility commenced. These treaties are "international engagements" and their validity, within the reservation of Article XXI, is not affected by the Covenant. Under the Bryan treaties, therefore, arbitrators, a ma-

jority of whom are not to be American citizens, would have jurisdiction to consider and report concerning any dispute arising under the Monroe Doctrine, and while the arbitration was proceeding this country would be obliged to abstain from enforcing the Doctrine, however exigent the situation might be. Under such circumstances the question whether Article XXI adequately reserves the rights of the United States under our traditional national policy loses much of its importance.

(Letter No. 23)

ARTICLES XXII–XXV

The preceding articles of the Covenant have dealt almost exclusively with the organization of the League and the prevention of war. Article XXII and the three that follow are concerned with the improvement of conditions in which the people of many countries take, or ought to take, an interest.

The first of these articles deals with races hitherto ruled by Germany and her allies and not yet qualified to govern themselves. Its object is two-fold. First, to protect and assist peoples on their way to complete independence; to guard them from dangers, and guide them while still inexperienced in the use of popular government. During that period they would be likely to make mistakes which might expose them to external and internal perils. The second object is to prevent selfish exploitation of backward peoples

and natural resources. These regions were won by all the nations that helped to win the war, and all have a right and duty to demand that the native inhabitants shall not be maltreated, and that one of the victors shall not monopolize to the exclusion of other countries any raw products essential to the industries of the world.

Such things are properly placed under the control of the League; and if so the plan of mandataries acting under contract with the League, and rendering an annual report of their stewardship to the Council, with a permanent commission to supervise the administration, seems well devised for the purpose. No nation need accept a mandate unless it pleases, but if it does so it accepts the trust under the conditions prescribed by the League. The whole plan marks a great step forward in the recognition of the common responsibility of civilized nations for the weaker peoples of the earth; in contrast with the principle of exploitation for the national benefit of those who can succeed in conquering and owning them, or who can by purchase, bargain or force of arms obtain a transfer of

them from their former masters. To establish the principle, to provide for inspection and publicity, is a long advance, and may be expected to have a moral effect upon the government of all native races whether under the control of the League or not.

Article XXIII carries the conception of responsibility, instead of exploitation, still farther, applying it to the conditions of labour, the treatment of all native races, the white slave trade, the traffic in opium and other dangerous drugs, the trade in arms in disorderly regions, fair commercial opportunity, and the prevention of disease. Everyone familiar with the difficulty of regulating these things properly under the pressure of competition will appreciate the importance of concerted action. In such matters the work of the League must be consultative and advisory, because over the legislation and administration of its members in their own countries it has no control. But the members themselves covenant to do these things, and in the case of labour to endeavour to maintain fair and humane conditions not only in their own country, but also in all others to

which their commercial and industrial relations extend. They agree further to maintain for that purpose the necessary international organizations. The publicity which will result cannot fail to be of value, and the total effect may be expected to be large and highly beneficial.

Article XXIV deals with international bureaus for the administration of matters of common interest. Few persons have any conception how many of these exist. The best known is the Universal Postal Union, but there are many others relating to telegraphs, wireless, agriculture, railroads, river navigation, industrial and literary property, sanitation, crime, scientific subjects, and other things. Some of them include all civilized countries, some only those neighbours directly concerned. There are also a number of commissions of various kinds. Some were in existence before 1914 and the war has brought in among the Allies many more in the effort to unify the conduct of military action, and the vast auxiliary supply services connected therewith. Some of these will be useful in peace as well as in war and will survive.

Hitherto the different bureaus have been independent of one another; but it is obviously better administration to place them under one supervising authority, where information about them can be readily collected, so that the Council and Assembly can discuss them, bring grievances to light, demand explanations and correct abuses. This is the object of Article XXIV.

The work done by the members of one organization in the war has been so great that it seemed possible to make a larger use of it for the relief of suffering in time of peace. Both as a recognition of its services and with a view to further work, the members of the League agree by Article XXV to promote the establishment and co-operation of national voluntary organizations of the Red Cross.

(Letter No. 24)

THE COLONIAL MANDATES

General Smuts, in December last, published a little brochure, which he called "The League of Nations; a Practical Suggestion." In it he outlined his project of a league, which has been very closely followed in the Covenant which has been adopted by the Peace Conference in Paris. General Smuts pointed out that one of the first results of the war would be the removal of existing sovereignties over the colonial empire of Germany and the nations heretofore under Ottoman rule, and the establishment of a group of new and untried states in Europe.

With respect to the colonies, he insisted that none of these territories should be annexed by any of the victorious powers; that in their future government, any external authority, control or administration, which might be necessary because of their imper-

fectly developed civilization, should exclusively be vested in and exercised by or on behalf of the League of Nations. He pointed out that wherever in the past joint international administration had been applied to territories or peoples, it had been found wanting; that the only successful administration of colonies or dependencies was that which had been carried out under the direction of one state with sufficient experience for the purpose. He advocated administration of the peoples and territories coming under the jurisdiction of the League, by nominating a particular state to act for and on behalf of the League in the matter, and that wherever possible, this agent or mandatary of the League should be nominated or approved by the people of the territory in question; the degree of authority, control or administration to be exercised by the mandatary state to be in each case laid down by the League in a special act or charter.

During the war, different powers of the Alliance came into the possession of various territories or colonies, and, at the time of the opening of the Peace Conference, some of

them gave evidence of a strong desire to continue such possession for their own benefit. On the other hand, Great Britain displayed a very strong disinclination to exposing herself to the charge of having waged war to extend her colonial empire. General Smuts' proposal furnished a solution of both of these difficulties, and the principles advocated by him were closely followed in Article XIX of the original Covenant of Paris. Great objection to it, however, was expressed in some American quarters, upon the ground that the League might require a nation—ours, for instance—without its consent, and even against its will, to undertake the administration of some far distant country. The apprehension was not warranted by the language of the Covenant, but the revised Covenant has removed any possible basis for it, by expressly limiting the selection of mandataries of the League to those states who are willing to accept the mandate.

The history of German colonization is one of the exploitation of semi-barbarous peoples for the benefit of Germany, without the slightest regard to the welfare or interests

of the peoples she ruled over. It is, therefore, unthinkable that any of the African or Australasian possessions of Germany should be restored to her, nor is it conceivable that the Allied Powers should return to the rule of the unspeakable Turk any of those regions which have been freed from Ottoman tyranny.

The African colonies are, and for many years will be, incapable of governing themselves. Such regions as Mesopotamia, Syria and Armenia are occupied by peoples unaccustomed to self-government, and incapable, at the present time, of being entrusted with complete political autonomy. While each of these countries was occupied by the army of one of the Allied Powers, yet, in a general sense, their possession was the result of the combined effort of the Allies, and no one power is warranted in claiming the right, or should be charged with the duty of continued occupation and sole responsibility for the government of such regions. The suggestion of General Smuts was followed by the Peace Conference as affording a just solution of a difficult problem.

Article XXII of the revised Covenant

declares that there shall be applied to the problem of governing the states or territories from which the sovereignty exercised before the war has been removed and which are occupied by peoples not yet able to stand by themselves,

the principle that the well being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this covenant.

It declares the best method of giving practical effect to this principle to be that the tutelage of such peoples be entrusted to advanced nations, who, by reason of their resources, experience or geographical position, can best undertake this responsibility, and that the character of the mandate under which they should act must differ according to the stage of development of the people, the geographical situation of the territory, its economic conditions, and other similar circumstances. In the case of communities formerly belonging to the Turkish Empire which have reached a stage of development where their existence as independent nations can provisionally be

recognized, subject to the general assistance and control of a mandatary, it is declared that the wishes of those communities should be the principal consideration in the selection of a particular mandatary. Other peoples, especially those of Central Africa, are at such a stage of development that the mandatary must be responsible for the administration of the territory, under conditions which will guarantee freedom of conscience or religion, subject only to the maintenance of public order and morals, the prohibition of abuses, such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military training of the natives, except for their own police and defense purposes and under such conditions also as will secure equal opportunities for the trade and commerce of other members of the League. These provisions should effectively preclude the possibility of such scandals as the history of the Congo State affords.

Other territories, such as Southwest Africa and certain of the South Pacific Islands, which are contiguous to organized and civi-

lized powers of the character of the South African Union or the Australasian Commonwealth can, it is pointed out in the revised Covenant, best be administered as integral portions of the territory of such an adjacent nation, and under its laws, subject to the safeguards above mentioned, and in the interests of the indigenous population.

In every instance, the mandatary is required to render to the Council an annual report of its stewardship, and a permanent commission is to be constituted to receive and examine these reports, and to advise the Council on all matters relating to the observance of the mandates.

The United States is not required, under the treaty, to accept a mandate to administer any one of these territories. But the direct responsibility which it has assumed in the settlement of the terms of peace may, and probably will, impose upon it the moral obligation of discharging some duty in this direction. The experience which has been gained in the administration of our Asiatic and other insular possessions should have fitted us for the performance of such a trust.

(Letter No. 25)

LABOUR

The labour article in the original Covenant (Article XX) merely bound the parties to the establishment, as a part of the League organization, of a permanent Bureau of Labour, in furtherance of an effort to secure and maintain fair and humane conditions of labour in the countries of the League and those with which they should have commercial and industrial relations.

Before the revised Covenant was adopted, the Commission on International Labour Legislation, appointed by the Peace Conference, had submitted a report recommending the establishment by the League of a permanent organization for the promotion of international regulation of labour conditions. With that in view, there was substituted for Article XX a new Article XXIII, reading as follows:

"Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the members of the league (a) will endeavour to secure and maintain fair and humane conditions of labour for men, women and children both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organizations; (b) undertake to secure just treatment of the native inhabitants of territories under their control; (c) will intrust the league with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs; (d) will interest the league with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest; (e) will make provision to secure and maintain freedom of communication and of transit and equitable treatment for the commerce of all members of the league. In this connection the special necessities of the re-

gions devastated during the war of 1914-1918 shall be in mind; (f) will endeavour to take steps in matters of international concern for the prevention and control of diseases."

The proposed International Labour Convention which is to be a part of the treaty of peace, a supplement to the League Covenant, seeks to accomplish the objects recited in Article XXIII through the medium of a permanent organization, which shall consist of a General Conference of the representatives of the respective powers and an International Labour Office. The General Conference is to be composed of representatives of states members of the League, chosen in a somewhat novel manner: Each nation is to have four delegates, two representing its government, one representing employers and the other representing working people. These delegates are to vote individually, not as a national unit. The International Labour Office is to be under the control of a board of twenty-four members, again to be chosen in a novel and complicated manner. Twelve shall be representatives of the governments, six shall be elected by the delegates to the

Conference representing the employers, and six by those representing the working people. Of the twelve government representatives, eight shall be designated by the powers which are of chief industrial importance, and four by the powers selected for that purpose by the governmental delegates to the Conference, excluding the delegates of the above mentioned states. No one of the parties, together with its dominions and colonies, shall be entitled to nominate more than one member of the governing body of the International Labour Office.

The International Labour Office is to collect and distribute information on all subjects relating to the adjustment of international conditions of industrial life and labour, and particularly on subjects which are proposed to be brought before the Conference in connection with proposed international conventions. The Conference may formulate and submit either recommendations for national legislation or regulation by the respective powers, or proposed international conventions to become treaties binding upon the respective parties. Provision is made for

enforcing by economic measures any convention which shall have been ratified, but not properly carried out, by any nation. Complaints of this character may be submitted to investigation by a commission of inquiry or by the permanent court of international justice of the League of Nations. Machinery is provided, whereby a state which fails to carry out its obligations, or to enforce a convention which has been ratified, may be subjected to economic measures to compel it to do so. But no nation shall be asked or required by the Conference, as a result of the adoption of any recommendation or draft convention, to diminish the protection afforded by its existing legislation to the workers concerned.

The extent and scope of activities of this proposed organization is indicated by the programme adopted by the Commission itself for the first meeting of the Conference, to be held in October next. It involves the application of the principle of an eight-hour day or forty-eight-hour week, prevention of unemployment, employment of women before and after child-birth, at night, or in unhealthy processes, and the employment of children.

(*Letter No. 26*)

LABOUR (*Continued*)

The Commission on International Labour Legislation besides preparing and submitting to the Peace Conference the convention or treaty described in the preceding letter also recommended for the consideration of the members of the League of Nations an extensive programme for insertion in the treaty of peace separate and apart from the convention.

This programme consists of the following declaration of principles which has been characterized as the Labour Bill of Rights, viz.:

"1. In right and in fact the labour of a human being should not be treated as merchandise or an article of commerce.

"2. Employers and workers should be allowed the right of association for all lawful purposes.

"3. No child should be permitted to be

employed in industry or commerce before the age of fourteen years. In order that every child may be insured reasonable opportunities for mental and physical education between the years of fourteen and eighteen, young persons of either sex may only be employed on work which is not harmful to their physical development and on condition that the continuation of their technical or general education is insured.

"4. Every worker has a right to a wage adequate to maintain a reasonable standard of life, having regard to the civilization of his time and country.

"5. Equal pay should be given to women and to men for work of equal value in quantity and quality.

"6. A weekly rest, including Sunday, or its equivalent, for all workers.

"7. Limitation of the hours of work in industry on the basis of eight hours a day or forty-eight hours a week, subject to an exception for countries in which climatic conditions, the imperfect development of industrial organization or other special circumstances render the industrial efficiency of the workers

substantially different. The International Labour Conference will recommend a basis approximately equivalent to the above for adoption in such countries.

"8. In all matters concerning their status as workers and social insurance, foreign workmen lawfully admitted to any country, and their families, should be insured the same treatment as the nationals of that country.

"9. All states should institute a system of inspection, in which women should take part, in order to insure the enforcement of the laws and regulations for the protection of the workers."

Whether or not this general declaration shall be adopted by the powers signatory to the peace treaty, its formulation and recommendation by the International Commission indicates the extent of the programme which the civilized powers of the earth are invited to adopt. The Commission also adopted a resolution expressing the hope that as soon as possible an agreement should be arrived at between the high contracting parties with a view to endowing the

International Labour Conference, under the auspices of the League of Nations, with power to take, under conditions to be determined, resolutions possessing the force of international law.

This proposal embodies the recommendation of the Interallied Labour and Socialist Conferences held in London in August, 1917, and February, 1918. It is at variance with the general plan of the Covenant of the League of Nations, which carefully avoids any effort to erect a super-sovereignty over the nations, and confines itself to international agreements and their enforcement as the principal basis for the preservation of international peace. Fortunately, it is not embodied in the treaty, and it is improbable that the United States would accept it. The Covenant of the League of Nations carefully avoids the erection of a super-sovereignty on the nations, and preserves the character of the League as an Alliance—not a confederation or union. The nature of the Labour Conference follows, and should be held to the same theory.

Many of these recommendations for the

improvement of labour will appeal at once to the favourable judgment of the world. How far the present unequal condition of development of the different countries composing the League of Nations will warrant the standardization of labour conditions proposed by this convention is a matter calling for careful examination. The project involves a novel effort of far-reaching consequence. In view of that novelty, it is to be regretted that the proposed convention should be made so extraordinarily difficult of amendment as is proposed. By its terms, any amendment must first be adopted by the conference by two-thirds of the votes cast by the delegates present, then ratified by the states whose representatives compose the Executive Council of the League of Nations and finally by three-fourths of the states whose representatives compose the Body of Delegates of the League. The plan as a whole undoubtedly will appeal to a large number of people. It will have the endorsement of organized labour in the United States, and cannot fail to exercise a great influence upon the ratification of the peace covenant itself.

(Letter No. 27)

CONCLUSION

Article XXVI, the last in the Covenant, deals with amendments; and it is singularly free from detail. It does not prescribe any procedure whatever, but merely that amendments shall "take effect when ratified by the members of the League whose representatives compose the Council and by a majority of the members of the League whose representatives compose the Assembly." No doubt proposed amendments would be discussed by the Council, and probably also by the Assembly, but this is not obligatory, the only essential thing being that they should be ratified by the nations themselves as stated.

Two facts about this method of amendment may be observed. One of them is that the unanimous assent is required not only of the five large states, but also of the smaller states associated with them on the

Council, these last having, so long as they retain their seats on that body, all the privileges of the five large nations. The other fact to be noted is that the independent sovereignty of each member of the League is wholly preserved, because it is not bound by any amendment to which it does not freely consent, no matter how overwhelming the majority by which it is adopted. Yet the difficulty met with at The Hague, whereby a few small objectors could block a plan, is avoided by providing that a state which is unwilling to consent to an amendment duly adopted ceases to be a member of the League. It cannot be a party to a Covenant that does not bind all equally, and hence it goes out. This is in accord with the general principle which runs all through the Covenant; that the members as independent sovereign states assume certain definite obligations specifically described, and further concert of action is wholly voluntary on their part.

Probably no two nations, and perhaps no two men, would have drafted the articles for a League of Nations precisely alike, and any such document must in the nature of things

involve much compromise. There is abundant evidence of this in the Covenant of Paris, not least in the amendments made to meet objections raised in America, after the draft agreed upon by the representatives of fourteen countries had been presented to the Peace Conference. Those objections seem to have been adequately covered by provisions whose meaning cannot reasonably be doubted by any one who believes sincerely in such a League. The principles on which the League is based are sound, and impose the least obligations consistent with the prevention of future wars. The question for a citizen of the United States is not whether the Covenant represents his views precisely, but whether on the whole it is good or not, and whether this country had better accept it or not.

It has been argued that peace with Germany ought to have been made first, and a League of Free Nations organized afterward. But—quite apart from the fact that a League must be made at the close of this war or the one great opportunity of centuries would be lost—the treaty of peace has made clear, what shrewd observers had foreseen, that the

terms of the treaty depend for their maintenance upon a League strong enough to enforce their observance. Besides the articles of the Covenant itself, the treaty of peace contains many provisions for action by the League, and this is necessary. It would otherwise be difficult to execute, for example, the plans for giving to the newly constituted states in central Europe access to the markets of the world through navigable rivers and free ports. In fact, the very existence of these new states would be in jeopardy without the moral support of such a League.

The Covenant is, therefore, an essential and integral part of the treaty of peace, not artificially, but by the very nature of the case. They cannot be separated. To cut the Covenant out of the treaty is to amend it, and leave the whole peace to be negotiated over again between thirty-two independent nations. How long this would take, it is impossible to foresee; certainly several months, perhaps longer. During that time Germany would intrigue to bring about disagreements, and meanwhile we should still be in a state of war, so that our troops cannot

come home, and we cannot return to the natural course of our peaceful industries and commerce. Are the amendments desired in the Covenant—mainly questions of wording—important enough to warrant the delay and the risk?

The world stands at a crisis in its history. Chastened by war, it is ready to adopt our principles of arbitration and disarmament, coupled with projects for the amelioration of the lot of mankind, if we will join in a League for the purpose. Shall we do it or not? Shall we allow small things to hinder great ones? Shall we now hold back, or shall we consent?

THE END

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